L M Schwartz

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The new politics of the new poverty

LAWRENCE M. MEAD

THE POVERTY OF today's underclass differs appreciably from poverty in the past: underclass poverty stems less from the absence of opportunity than from the inability or reluctance to take advantage of opportunity. The plight of the underclass suggests that the competence of many of the poor—their capacity to look after and take care of themselves—can no longer be taken for granted as it could in the past.

The changing nature of poverty has also ushered in a fundamental change in our politics, which formerly focused on class but now emphasizes conduct. Prior to the 1960s, in what I call the era of progressive politics, the overriding issue was how to help ordinary working Americans advance economically. The solutions of liberals and conservatives differed greatly, but both groups agreed that available opportunities would be seized by the poor. They disagreed in locating the barrier to opportunity: liberals blamed the unregulated economy, and conservatives blamed the government.

Adapted from a forthcoming book on the new dependency politics and the nonworking poor, by Lawrence M. Mead, to be published by Basic Books in 1992. Reprinted by permission of the publisher.

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As a result, liberals favored greater government intervention, while conservatives hoped to reduce it. At issue were class inequalities and the need for economic redistribution: Was the inequality meted out by the marketplace acceptable? How desirable were regulations of wages, hours, and working conditions, along with the creation of social-insurance programs to benefit workers and their families?

Antipoverty strategy and politics differ greatly today, because poverty is rarely found among workers but is common among nonworkers. In the new era, characterized by what I call dependency politics, the leading issue is how to handle the disorders of inner-city nonworkers: conservatives usually want to enforce civilities, which liberals resist doing. For the most part, we spend less time debating whether the income of the working poor should be larger than we do discussing whether and how we can transform poor nonworkers into workers.

Recent disagreements over tax hikes and budget cuts suggest that redistributive conflicts over the economy remain very much with us; economic inequality has increased, and Kevin Phillips's prediction of heightened conflict between rich and poor received much attention last year. Nevertheless, in the absence of economic collapse serious class conflict is unlikely. The politics of conduct, which focuses on dependency and disorder, is simply more salient than the politics of class. The problems of rising crime, welfarism, homelessness, and declining schools (and the tax increases imposed to pay for them) are what chiefly concern most Americans; they worry far less about the income gap separating them from their employers. Most Americans doubt government's ability to solve the new social problems that confront us. Unless government better responds to them, it will receive no new mandate to tackle the older problem of unequal fortunes.

The public's focus on dependency and disorder has obviously damaged the American left, which is more comfortable dealing with issues of economic redistribution. The public's conservatism on social (as opposed to economic) issues largely explains why Republicans have controlled the White House and the national agenda for most of a generation. Democrats in presidential politics have paid a high price for their perceived softness on the question of "values." In the 1988 election, Michael Dukakis proposed new benefit programs of the kind that used to win elections for

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Democrats. The Bush campaign easily defeated him by speaking of crime and Willie Horton.

But despite its electoral advantages, the antigovernment right—like the redistributionist left—is uncomfortable with dependency politics. When the poor behave badly, bigger government becomes indefensible, because many of its beneficiaries are "undeserving." But smaller government is also questionable, because many believe that the poor could not cope without the many benefits and services that they receive. Distrust of the dysfunctional poor defeated the most ambitious plans to expand government during the Great Society. But concern for these same poor helps explain why Ronald Reagan was unable significantly to reduce the size of domestic government.

Working class to underclass

This political change was brought about by the appearance of an intractable type of poverty in American cities in the 1960s and early 1970s. Ironically, the same era witnessed the last great victories of old-style progressive politics. The victories were achieved by the civil-rights and feminist movements, which were largely composed of working people seeking expanded economic opportunities. Their demands, like those made in earlier decades by distressed farmers and organized labor, sought to increase the income of workers.

But in the same era, welfare rolls more than doubled, crime soared, and riots broke out in the ghettos of major cities. These developments raised issues of order and propriety much more sharply than the earlier movements. By the end of the 1960s, the closely-linked problems of poverty, welfare, and the inner city dominated the domestic agenda. Since then, the claims of broader groups, including minorities and women, have not gone unnoticed, but they no longer command center stage. Social-reform efforts now focus on welfare, education, and criminal justice, not the economy. Even the recessions of the 1970s and early 1980s, the most serious since the Depression, failed to inspire major new efforts to help workers. Issues of dependency and dysfunction, not opportunity, now preoccupy us.

Some might say that dependency politics is not new, in that controversies about the "undeserving" poor, and what to do about them, have often marked American history. But if the themes of dependency politics are not new, its prominence is. "Welfare poli-

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tics" before 1960 was largely a local affair. At the national level, the arena was always dominated by groups that were not dependent and were usually employed. Only in the recent era have dependent, mostly nonworking groups captured the nation's political attention.

The employment issue, like no other, marks the boundary between the old politics and the new. The movements of the progressive era had weight above all because their members worked, or at least had a job history. The aggrieved might have been destitute, but they could make claims on the basis of desert. The recent poor seldom can do this. They are controversial, above all, because they usually do not work. Only 40 percent of poor adults had any earnings at all in 1987, and only 9 percent worked full-time year-round. That initially was why most of them were poor. Work effort among the poor has also dropped sharply. Only 47 percent of the heads of poor families worked at all in 1987, down from 68 percent in 1959.

Of course, only about half the poverty population is working-aged, and only about half remains in poverty for more than two years. The underclass, consisting of the poor with the most severe behavioral problems, is quite small: it includes no more than eight million people by various estimates. Yet persistent poverty is highly visible in cities, and it is central to all major urban problems—not only welfare, crime, and homelessness, but troubled schools and a decaying economic base. So it gets more policy-making attention than the affairs of the vastly larger working and middle classes.

This new poverty created a new politics because the old politics found no answer to it. Neither of the traditional, competing progressive-era remedies—increasing or decreasing government intervention in the economy—seems an appropriate response to the passive poverty of the inner city. It is true that analysts wedded to progressive-era assumptions—whether liberal or conservative—continue to try to trace passive poverty to some social barrier that must be eliminated: liberals say that poor adults cannot earn enough to make work worthwhile, cannot find jobs or child care, or are barred from jobs by racial bias; conservatives claim that welfare "pays" dependents not to marry or work. But the hard evidence mostly undercuts these explanations. Liberal claims notwithstanding, jobs usually are available to the unskilled; taking these jobs would generally move families in which both parents worked above the poverty line. The flood of new immigrants enter-

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ing the job market is one clear sign that opportunity still exists. Working mothers can usually arrange child care informally and cheaply, and discrimination in any overt form has disappeared. But conservative claims notwithstanding, welfare disincentives are also too weak to explain the collapse of the family or the very low work levels typically found in the inner city today.

I do not mean that barriers are totally absent. Differences of opportunity certainly exist in America. Better-educated people, for example, are more likely to succeed. In recent decades, the income disparity between low-skilled and high-skilled workers has increased. The progressive-era debate over whether and how to narrow these differences in wages remains alive.

Unequal opportunities, however, chiefly explain why some workers earn more than others. They usually do not explain the failure of nonworkers to work steadily *at all*, which is in turn the cause of most poverty and dependency among working-aged people. Most Americans have responded to stagnant wages by working *more*; only the poor have worked less. Most Americans refuse to believe that society's failure to expand opportunity causes the poverty of nonworkers who do not take and hold available jobs.

To explain most entrenched poverty, we must go back to what used to be called the "culture of poverty." Nonworking adults apparently want to work, but they seldom do so consistently—some because the pay offered is unacceptable, others because they feel overwhelmed by the practical difficulties of employment. These reactions run strongest in the inner city, because of its isolation from workaday society, and among racial minorities who have traditionally faced discrimination. The greatest cause of today's poverty may simply be that the attempts in recent decades to equalize opportunity have failed to persuade many blacks and Hispanics that it is worth working.

But if nonwork is rooted mostly in the demoralization of the poor, rather than impersonal impediments, then traditional reformism holds no answer for it. Passive poverty has defeated, in turn, the strategies of both larger and smaller government. The Great Society invented wave after wave of new antipoverty programs, only to see the poverty level stagnate and welfare rise. The Reagan administration cut or curbed the growth of these programs to reinvigorate the economy. But even the longest boom in American history could not reduce poverty below 13 percent, because the poor are now substantially detached from the economy. Each in its

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own way, these strategies provided new chances to poor adults, but neither directly addressed the puzzling reluctance of the poor to do more to help themselves.

As a result, social policy has been driven away from structural reforms and toward paternalism. The drift is toward policies that address motivation by seeking to direct the lives of those dependent on government. Public institutions are taking over tutelary functions from weakened families. Social-service agencies are raising children, and schools are organizing the lives of students before and after class as well as during it. Homeless shelters and the criminal-justice system are managing the disordered lives of single men. Above all, recent welfare legislation requires rising numbers of employable recipients to participate in job placement or training on pain of cuts in their grants. Such measures violate the traditional prescriptions of liberals, who want benefits given without conditions, but also those of conservatives, who would prefer to see discipline applied by the private rather than the public sector. But they seem required by the changing nature of the social problem.

These trends are most advanced in the U.S., but they are appearing in Europe as well. An underclass, largely nonwhite, has grown up in British cities, while throughout Europe controversy rages over whether immigrants from the Third World are corrupting traditional mores. These racial and ethnic divisions now arouse more passion than the traditional conflicts of labor and business. The behavior of "outsiders" is far more controversial than economic claims. Crime, dependency, and a failure to learn the national language are at issue, not working-class demands for higher wages and benefits. The West as a whole seems destined for a politics of conduct rather than class.

The new agenda

Dependency politics and progressive-era politics differ substantially in content, even though there is much overlap in practice. I exaggerate the contrasts here for emphasis:

The old issues were economic; the new ones are social. Progressive-era politics debated the proper organization of society, especially the issue of government control of the economy. Liberals supported higher and more progressive taxation; public regulation of industries; union rights; the minimum wage and other protections for workers; pension, health, and unemployment benefits; and the anti-bias legislation of the 1960s. Conservatives strove to

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weaken or undo all these steps in the belief that only a revivified free market could really generate "good jobs at good wages."

In dependency politics, in contrast, the question is how to deal with the problems of basic functioning among the seriously poor. The social, more than the economic, structure of society is at issue. The focus is on troubled individuals or ethnic groups rather than industry, agriculture, or the relations of labor and management. Social problems are no longer seen to stem directly from injustice, nor are they obviously reformable. So social policy must focus on motivation and order rather than opportunity or equality.

Affluence helped produce this shift. Before the 1960s, working-class incomes were still low enough that many people were poor, even though they worked normal hours. That is much less common today, because the poverty line is constant in real terms while real wages have risen. The poor, who used to work more than the better-off, now commonly work less. Inevitably, the focus of the social agenda has shifted from the low wages that used to impoverish workers to the dysfunctions that keep the nonworking poor out of the labor force.

In progressive-era politics the issue was government control of the economy; in dependency politics it is government supervision of behavior. Progressive-era politicians disputed how far government should regulate the free market in the collective interest, how much it should spend on benefit programs such as Social Security.

In dependency politics, however, the chief question is how far government should control the lives of dysfunctional people in their own interests. Do we require that people stay in school, obey the law, avoid drugs, and so on? Above all, do we require adults to work or prepare for work as a condition of receiving welfare? Proposals to do these things do not much change what government does for people. Rather, they demand that dependents do more for themselves in return.

Formerly it was local authorities who grappled with maintaining social order, while Washington managed the economy. But order issues have become federal, because national programs are involved in all the key areas—welfare, education, and criminal justice. It is now the main domestic challenge of presidents, as of mayors, to reduce crime and dependency and to raise standards in the schools. Presidents Nixon, Carter, and Reagan all tried to reform welfare, and George Bush aspires to be an "education president."

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The old issues concerned adults; the new issues concern children and youth. Progressive-era political claims were on behalf of adults, especially workers. The question was how to reorganize government or the economy so that adults could have influence and opportunity. In the dependency era, however, these issues are less salient than people's problems on the road to adulthood—illegitimacy, educational failure, and crime. So dependency politics focuses heavily on the formative years. Reformism aims to improve family, neighborhood, and schools rather than the political or economic structure.

Daniel Patrick Moynihan says that social policy has entered a "post-industrial" age. The main challenge is no longer to expand economic opportunity but to overcome social weaknesses that stem from the "post-marital" family and the inability of many people to get through school. The inequalities that stem from the workplace are now trivial in comparison to those stemming from family structure. What matters for success is less whether your father was rich or poor than whether you knew your father at all.

A focus on youth is inevitable once the leading social problem changes from the poverty of workers to dysfunctional poverty. For if the source of poverty is behavior rather than lack of opportunity, remedies must focus on youth, the stage of life at which behavior is most malleable. Conversely, reform for adults must be structural because it must take personality largely as given.

The pressures in progressive-era politics arise from self-seeking behavior; in dependency politics, they arise from passivity. Progressive-era politics debates the freedom that America allows people to make money and get ahead on their own. To conservatives, this prerogative is a right that government may not limit. To the left, it is a license that government must restrain in the name of a broader social interest.

The poor and dependent, however, are not exploitative but inert. They are controversial mostly because they do so little to help themselves, not because they hurt others in the pursuit of advantage. Even when violent, they are unable to exert themselves effectively. They are not aggressive so much as *passive* aggressive. So in dependency politics, the issue is whether poor people should have to do more to help themselves. The question is how passive you can be and still be a citizen in full standing.

Formerly, the right defended property and the established order against public controls. Now it is the left that defends the status

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quo, by justifying passivity among the needy, while the right demands greater activity. Recent measures such as workfare or reformed schools are attempts to stimulate the poor, not to curb the rich. The point is to set a floor under self-advancement, not a ceiling above it. The hope is to make the poor more effectively self-seeking than they are.

Claims in progressive-era politics derived from strength; those in dependency politics arise from weakness. The chief players in the progressive era were unions, farmers, businesses, and other economic interests that demanded some benefit or protection from government on a basis of desert. They were economically disadvantaged, but their demands were also made from a position of strength, because they had economic and political resources of their own. They could use these resources to get attention from politicians, but they could also survive on their own if rebuffed.

In dependency politics, the claimants usually have no such strength, as they lack any regular position in the economy. They are simply needy. Their main claim is precisely their vulnerability. It is not their own power that gets attention, but politicians' fear of a backlash from the better-off if the needy are left unprotected. Economic groups state their claims by speaking of troubled finances. The very poor state theirs by a disassembly of the personality—by failing to function in embarrassing ways that force society to take responsibility for them.

In dependency politics, the poor claim a right to support based on the injuries of the past, not on anything that they contribute now. Wounds are an asset today, much as a pay check was in progressive-era politics. One claims to be a victim, not a worker. The nonwhite poor, particularly, appeal to historic injustices. Even some policies that aid better-functioning minorities, such as affirmative action, require their beneficiaries to adopt the identity of victimhood to some extent—to exploit an appeal, as Shelby Steele says, based on "suffering" rather than "achievements."

Poverty shifts the agenda from equality to citizenship. The question is no longer what the worst-off members of the community should receive. Now the question is who should be considered a bona fide member of the community in the first place. Who has the moral standing to make the demands for economic redress typically made in the progressive era? When dependency comes to dominate politics, class-oriented issues of equality for workers

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inevitably move off the agenda, while issues of identity and belonging replace them.

In Europe as well as the U.S., dependency concerns replaced progressive ones as motives for the reconsideration of the welfare state that began in the 1970s and 1980s. At first, the issues were economic, the fear that excessive spending on income and health programs was overburdening the economy. Cuts were made to promote economic growth, the step conservatives always recommend in progressive-era politics. More recently, however, the greater concern has been declining social cohesion, as evidenced by rises in crime, single parenthood, and chronic unemployment. The response, in Britain and Sweden as in the U.S., has been new steps to enforce child support and work effort among the dependent. The shift from the older, redistributive agenda to these new, more behavioral issues ushers in a new political age.

Competence at issue

If there is a core issue in dependency politics, it concerns the competence of the poor to manage their own lives. Such competence was taken for granted—by conservatives and liberals—in progressive-era politics. It was assumed that the poor would act effectively to advance their own self-interest, if not society's, above all by working. The chief issue was how best to expand the benefits of employment. This accounts for the impersonal style of the era, its fixation on economics and social organization. The private lives of the poor were presumed to be orderly, so that they could seize whatever opportunities government or the market might offer.

The essence of dependency politics is that competence comes into question. Debate now centers on the personal lives of the poor much more than on impersonal forces. More than before, social problems arise, not just from the various pressures that people face, but from their inability to cope with them. The problems of the poor can always be ascribed to either the environment or personal factors. In today's social analysis, therefore, judgments of human nature play as great a role as any hard evidence.

One critical issue is personal responsibility. Should the poor be sanctioned for bad behavior? In the progressive era, the comparative merit of individual freedom and social equality was at issue, but responsibility in this personal sense usually was not. Politicians argued about how to balance governmental action to increase

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equality against the freedom of the marketplace, but no one supposed that people need not observe conventional standards such as hard work and obedience to the law. In dependency politics, by contrast, the organization of society is less at issue than personal responsibility. Few people now argue for government ownership or even increased regulation, but many dispute whether the disadvantaged should have to observe behavioral norms that they themselves accept. The poor want to work and obey the law, but often they do not. Should they actually have to? Liberals tend to say no and conservatives yes. For example, most liberals are distinctly reluctant to enforce the criminal law severely in ghetto areas, to impose tougher graduation requirements on students in urban schools, and above all to require welfare recipients to work. They do not endorse the disorders of the ghetto, yet they feel that to "crack down" is somehow unfair to poor people struggling to cope with their lives. Conservatives, on the other hand, insist that the poor be held to the same behavioral standards as other people. In part, the left is simply more libertarian than the right, less willing to enforce values on anyone.

The differences, however, also rest on disagreements over the capacity of the poor to manage their affairs, particularly to work and raise a family. One can expect responsibility only of people able to take care of themselves. Liberals tend to be pessimistic about competence, viewing poor people as overwhelmed by their environment. So they ask special help for them and tend to be permissive about enforcing conventional mores. Conservatives are much more optimistic, hence more demanding and less permissive. This difference is muted among politicians, but very evident in debates among liberal and conservative experts.

Much of the debate over poverty is still conducted in terms of barriers, but appearances are deceiving. Liberals in the progressive era could appeal to impediments to supporting oneself, such as mass unemployment or racial segregation, that had little or nothing to do with the personal fortitude of the jobless. In consequence, liberals could ask for government intervention without reflecting on the competence of the beneficiaries. Today, such "hard" obstacles to self-reliance are much less evident. Objectively, problems like bad neighborhoods or low wages, which liberals like to cite to exculpate the poor, are seldom true barriers. They demoralize people without directly barring them from employment. To invoke them does reflect on the energy of those for whom the excuses are

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made. Today's arguments about barriers are usually arguments about competence in disguise.

Liberals are not wrong to stress barriers, but the barriers are more psychological than social. Conservatives are largely right that society offers poor people opportunities of a sort; barriers are seldom prohibitive. But liberals are largely right about the poor themselves. Researchers may say that opportunity objectively exists, but the entrenched poor are not convinced. The liberal notion that society hems the poor in at every turn rings true among the poor themselves, even if it is not objectively true. The notion of some conservatives that poor adults are really middle-class maximizers in disguise is implausible. Would they really jump up and work if denied welfare? More likely, they would cadge, hustle, and drift from job to job much as they do now.

Often barriers are in the eyes of the beholders, who judge them according to their views of competence. Liberal analysts are quick to find impediments to employment, because they view the poor as helpless victims. Conservatives see fewer barriers, and call for less help, because they impute more ability to the poor. What the left calls barriers the right regards as the ordinary logistics of working, which the poor, like other people, can handle by themselves. One side will not obligate the poor to behave better no matter what is done for them, while the other demands better behavior before anything is done. The poor are either innocent supplicants of whom nothing can be expected, or they are lazy exploiters who can and should shape up. These are not disagreements that any hard evidence can resolve.

Political changes

The advent of dependency politics changes the style of politics as well as the substance. Again, I simplify the contrasts for emphasis:

Progressive-era politics was self-reliant; dependency politics is not. In contrast to the reforms that mass movements achieved in the progressive era, dependency claims have seldom been pressed directly by the poor themselves, who are passive and withdrawn. Instead, their case has been made for them by program staffs or politicians already within the government, or by experts closely linked to it. With the Great Society, social-policy making in the U.S. became much more elitist than it ever was before. The civil-rights and feminist movements were the last to press change on

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government from outside. There is considerable public concern about poverty, but proposals for dealing with it still come mostly from antipoverty elites. This is why the findings about the causes of nonwork and poverty are so important: experts respond to them.

Urban riots, community-action programs, and the welfare-rights movement might be seen as instances in which the poor themselves exerted pressure in the 1960s for change. But all these movements were short-lived and of dubious value to the poor. The riots were undirected and destructive, while community action and welfare rights were created more by activists than by the poor. The movements advanced the careers of leaders, but they did not produce social change.

The underlying problem was that the supporters of these movements were too dependent on government to be truly radical. They lacked their own social position *outside* government from which to exert influence, above all because of their lack of employment. In contrast, the labor, civil-rights, and feminist movements did produce change, mainly because their participants were far more commonly employed. This gave them the income and the political capacity to build organizations able to stand apart from government, and thus bring pressure upon it.

Progressive-era politics distrusted the federal government, while dependency politics does not. In the last sixty years, conservatives have been the most distrustful of federal power, but earlier this was just as true of the left. Because business had dominated federal politics since the Gilded Age, the New Deal's architects found it hard to persuade local reformers to look to Washington for assistance. Local mayors and governors did not assume that federal programs could or would offer them much help in dealing with social problems. Washington did not lead localities in social policy but rather lagged behind them. Public welfare and unemployment benefits were initiated by states and only later were instituted at the federal level.

The claimants in dependency politics, however, trust government. Those speaking for the poor may disparage the authorities, but their actions belie their words, for their claims for redress are directed to the "oppressors" themselves. They generate little electoral pressure on leaders, yet demand that the leaders be "responsive." Of all American groups, the poor and blacks least fear centralized power. This reflects their traditional dependence on Washington for advancement. But there is a limit to what

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appeals to the sympathy of the successful can achieve. Only a movement with support from outside the regime can produce truly radical change. A nonworking poor, in the nature of things, cannot achieve it.

Dependency politics cannot produce equality in the old sense because it is not a self-respecting politics. Claimants ask for acceptance, but government cannot confer it. A group can earn acceptance only on the basis of its own discipline and achievements. Only then can it make claims in politics as an equal. The progressive-era movements instinctively understood this. All the players then could claim some resources of their own. Those that could not did not come forward. In the 1960s, when claims were finally made on behalf of the passive poor, politics was fundamentally changed.

Progressive-era politics was threatening, while dependency politics is disturbing. The progressive movements directly challenged established interests. They generated their own power for change and attempted to force it on the regime. The goal was to reorganize government and then the economy to advance the less well-off at the expense of the establishment.

Dependency politics does not threaten the status quo in this direct way. The poor or dependent are not organized to extort redress, nor could they be, given the disorder of their lives. Inner-city crime does pose a threat, but the victims are mostly as disadvantaged as the perpetrators. The rich have only to worry about protecting their persons and property, and they have to pay taxes to cope with the disorders of the ghetto. But they face no organized threat to their interests.

Dependency politics is, however, distressing. Welfare mothers and panhandlers are less formidable than were the union organizers of the 1930s. At most, the dependent poor pose a psychic—not a political or economic—threat. Other Americans worry that they might share the helplessness of the dependent poor, who present a frightening image of what life might be like without jobs or marriage. The working and lower-middle classes, who often live alongside the dependent poor, are the most hostile to them—precisely because they feel the greatest danger of joining their ranks. At the same time, dependency can arouse envy as well as fear: the capacity of the poor to shift responsibility for themselves onto others can be tempting. Most people abandon the yearning for dependency in childhood, but never without regret.

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Progressive-era politics was ideological, while dependency politics is moralistic. The progressive-era battle was about competing principles of social organization, government regulation versus *laissez faire*. Was capitalism the problem or the solution? The issues were impersonal, and so were the experts who led the debate—chiefly economists and lawyers, who offered contending theories of economic policy. For much of this century, liberal planners who favored controls dominated, until the Reagan era gave free-market economics a fresh hearing. That debate goes on, but it is peripheral to the social issues that now dominate domestic affairs. The more important argument today divides those who would enforce social values on the poor from those who would not. Good behavior is at issue, not the good society.

Leftists used to respond to poverty by demanding that reward be severed from performance in the marketplace. They claimed that people's economic needs ought to be satisfied, regardless of what they earned. The intellectual left still speaks for this collectivist goal. But practical politicians realize that tinkering with the market will not remedy the personal problems of today's poor.

The new emphasis on the dysfunctions of the poor has affected the sort of expert who interprets poverty. Economic thinking was critical to the old structural debates, but it is too impersonal to deal well with today's social problems. Of all poverty analysts, economists are the most wedded to the competence assumption and the readiest to believe that some new incentive or opportunity can raise work levels. As advisors to policymakers, they have lately had to make room for sociologists, psychologists, and political scientists, who are better able to fathom the complex psychology of poverty and the moral issues that it raises. There is less talk about poverty in the narrow economic sense, more about dependency, responsibility, and authority.

The Western tradition

Today's efforts to respond to dependency face serious challenges. They may well not allay our social problems as fully as progressive policies resolved yesterday's economic disputes. The newer, paternalistic social programs probably will do more to reduce poverty than the less demanding policies of the past: more authoritative schools are producing some results, and workfare programs have been able to increase work effort (though they have

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not yet reduced dependency). But it is doubtful that even these programs can do more than contain the social problem.

Even if they are effective, paternalistic measures raise serious political objections. The new structures reduce disorder, but at a cost to the autonomy of clients. This is particularly true if, as is likely, the chronic poor require direction on an ongoing basis, not just temporarily. That is why, even now, government prefers to spend money on the dependent rather than try to tell them how to live. Benefits lack the power of public authority to change behavior, but they do not violate our notions of a free society.

A more serious problem stems from our political traditions. Antidependency policies—and disputes about them—find no basis in the Western political tradition, which assumes that the individuals who compose society are competent to advance their own interests, if not society's. The traditional Western assumption is that politics arises from conflicting interests, as individuals and groups seek economic advantage. Government's task is to resolve these disputes in the general interest. It does not animate society, but rather responds to energy coming from below.

Historically, Western politics has been class-oriented: aristocratic elites, then bourgeois elements, then workers without property have advanced their own conceptions of how government and the economy should be organized. The dominant principles have become more democratic, then more collectivist, as government came to represent the mass of the populace and then to serve its needs. The contending visions may seem radically opposed, but from today's perspective they were remarkably alike: all assumed a working population, competent to advance its own interests.

This tradition is inapplicable to the problems posed by today's dysfunctional poor. But policy makers in this country and Europe are prone to respond to these problems by replaying the old scenarios. Today's liberals see history as a grand progression in which the rights of ordinary people have been expanded: first civil liberties, then representative government, then protections against the insecurities of capitalism were attained. Faced with passive poverty, the left can imagine no response other than providing some further entitlement, for example government jobs. The idea that dependents should have to function better seems like an attempt to deny benefits, and is thus anathema.

Antigovernment conservatives, for their part, blame poverty on an excess of government, just as the left blames it on the lack of

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government intervention. They insist that cuts in spending and taxes will somehow liberate the energy of the poor, as they do that of entrepreneurs. The idea that competence is a prior and different problem, requiring perhaps more government rather than less, is unthinkable.

These liberal and conservative responses are doomed to fail. If the seriously poor had the initiative to respond to new opportunities, they would not be poor for very long in the first place. The Great Society and the Reagan era both failed to solve poverty, because each in a different way offered new chances to the poor without confronting the motivation problem. Neither could seriously address competence, because that problem fell outside the Western assumptions underlying their ideas of social reform.

But despite these conceptual failures, government has begun to do something about poverty: a new, paternalistic regime for the poor is emerging. Ronald Reagan's greatest domestic legacy, despite his tax cuts, was not to reduce government; it was to start changing welfare into workfare. But the new regime is accepted grudgingly, if at all. Politicians argue heatedly about the issues of responsibility and competence that it raises, but they seldom do so honestly. They mention the "underclass" and the need for discipline, but they still talk as if they were offering the poor only "freedom" or "opportunity."

We need a new political language that considers more candidly the questions of human nature that now underlie politics. The political contestants need to defend their positions on a philosophic level, rather than hide behind outmoded theories. Liberals need to show why poor people are blameless, therefore still deserving; conservatives need to show how the poor are competent and why they need to be held accountable, in spite of dysfunction. From such premises they could then erect consistent doctrines of social policy, comparable to the competing theories of economic management that framed the leading issues in the progressive era.

If anyone is writing this theory, it is not philosophers like John Rawls and his critics (who assume a rational economic psychology and thus remain wedded to the competence assumption) but social-policy experts who grapple concretely with poverty. They know too much of the hard evidence about barriers to pretend that nothing has changed. To explain poverty and justify any policy toward it, experts need a psychological doctrine that explains how personal degradation occurs in an affluent and open society.

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Differing visions of human nature are what really divide Charles Murray, William Julius Wilson, myself, and others. For Murray, poor adults are short-sighted calculators who are tempted into dysfunction by the disincentives of welfare. For Wilson, they are driven into disorder by a changing economy that denies them jobs that could support a family. My own view, articulated in *Beyond Entitlement: The Social Obligations of Citizenship*, is that they are depressed but dutiful, willing to observe mainstream norms like work if only government will enforce them. But none of us has defended these premises in enough depth, or linked them clearly enough to our prescriptions.

Armed with theories like this, the political process might face more squarely the issues raised by dependency politics. It is more important that the positions be candid than that they agree. Progress requires that the fears of both sides be more fully aired, not that one side win. The debate might finally generate the consensus needed to support the new paternalistic social policy that is already emerging. There could be agreement on the basic civilities that everyone is prepared to enforce. On that basis, the nation could grapple with passive poverty more successfully.

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The moral environment of the poor

JOEL SCHWARTZ

A FEW YEARS AGO James Q. Wilson observed that the most important change in American social policy lay in what he called the "deepening concern for the development of character in the citizenry." Recent attempts to cope with poverty have been particularly marked by this shift: increasingly, measures are being proposed and implemented that explicitly present the restoration of moral order as a key to the reduction of poverty. Examples include experiments with boot camps, in which young felons spend weeks or months in a quasi-military atmosphere, receiving remedial education and learning to observe social norms; work requirements for welfare recipients; and the recent Wisconsin proposal to reward teenage welfare mothers who marry and penalize those who do not. These policies and others are premised upon an old-fashioned idea: if the poor are to escape poverty, they must somehow be encouraged to take responsibility for themselves—to hold jobs, to marry, and to obey the law.

This return to an emphasis upon character is ironic, because the orthodoxy among historians of American poverty and social wel-

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fare has been that we began to reduce poverty effectively only when we learned to abstract from its possible moral causes. Robert H. Bremner's *From the Depths: The Discovery of American Poverty* exemplifies the orthodox view: "Once it was agreed that virtue and vice knew no class lines," Bremner argues, "interest in the *so-called* [my emphasis] moral causes of poverty began to decline. Students of social conditions no longer deemed it profitable to exercise themselves about the precise amount of distress properly attributable to various categories of undesirable behavior."

Bremner claims that progressive reformers at the turn of the century achieved this reorientation by emphasizing environmental rather than moral factors: "[I]n seeking to explain the causes of distress they gave more and more attention to ... impersonal economic factors and less and less to ... personal, moral considerations." Thus the progressives looked to government regulation (of housing, the work place, and so forth) and in some cases to redistribution of income as the keys to lessening poverty.

Moral and environmental approaches need not, of course, be mutually exclusive. Bremner himself notes that for the progressives, "The social causes of misery were to be discovered and rooted out; the personal causes were to be dealt with by providing an environment less likely to drive men and women into vicious habits and more conducive to the development of good character."

The progressives have in fact been criticized for merely decanting the same old moralistic wine into new environmental bottles. Another historian, James T. Patterson, argues in *America's Struggle Against Poverty 1900-1985* that progressive environmentalism was not truly innovative. He charges the progressives with continued adherence to traditional moral explanations of poverty: they continued to distinguish "between the deserving and undeserving poor, ... glorif[ying] the work ethic.... For all their environmentalism, [the progressives] still tried to change the needy—to take the poverty out of people—as well as to take the people out of poverty."

Patterson is right to note that the progressives were still moralists in their own way. He is wrong, however, to suggest that their moralism is objectionable. The progressives attempted in their day what we are striving for today: to create a moral environment for the poor. They believed that poverty was often coupled with demoralization; hence a "remoralization" of the poor could play an important role in fighting poverty. At the same time, the progressives understood very well that simply preaching or dic-

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tating morality to the poor could not possibly succeed; instead, it was necessary somehow to establish an environment that would encourage and assist poor people to lead more orderly and productive lives. We seem now to be embarking on a similar quest; we can gain a useful perspective by examining past antipoverty strategy and the objections that have been launched against it.

Jacob Riis and his critics

Both moralism and environmentalism are prominent in the career of one of the most influential progressive reformers, Jacob Riis (1849-1914), best known today as the author of the widely-read 1890 exposé of New York poverty, *How the Other Half Lives*. Born in Denmark, Riis immigrated in 1870. He was very poor for a number of years before beginning a successful career as a New York police reporter. Riis was shocked by the poverty that he witnessed while reporting on the city's slums; he achieved fame documenting it, in the process becoming a close political ally of Theodore Roosevelt. A fierce opponent of tenement housing, Riis was particularly active in housing reform and in the creation of public parks and playgrounds.

Riis was a reporter and not a policy analyst. His writings were impressionistic, consisting to a large extent of illustrative vignettes; they were neither particularly theoretical nor systematic. In an important sense, his environmentalism and his moralism were somewhat at odds. Riis never resolved this tension; probably he was never fully aware of it. As an environmentalist he occasionally denied the moral responsibility of the poor, whose moral failings he blamed on the conditions in which they lived and worked. Riis was enough of a moralist, however, to believe that a wretched environment ultimately provided only an explanation of immorality, not an excuse for it. He believed that environmental improvements—specifically, the elimination and/or improvement of tenement housing—were needed as a means to the end of encouraging the poor to take personal responsibility for their lives. Never, though, did he suggest that the means was more important than the end, or that it could substitute for it.

Riis has been criticized by the left for his moralism and by the right for his environmentalism. The right takes issue with his belief in the transformative power of housing reform. Riis was an early proponent of slum clearance, and often he did seem to commit the error of imagining that the problems of poor people could

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be eliminated simply by moving them out of the poor buildings in which they lived. In 1958 *Fortune* editor Daniel Seligman nicely captured the fatuity of this position, quoting a "close student of New York slums":

> Once upon a time we thought that if we could only get our problem families out of those dreadful slums, then papa would stop taking dope, mama would stop chasing around, and Junior would stop carrying a knife. Well, we've got them in a nice new apartment with modern kitchens and a recreation center. And they're still the same bunch of bastards they always were.

More recently, William Tucker has criticized Riis for his antipathy to landlords, and more generally for "tend[ing] to direct all his wrath toward neutral objects—mostly the buildings themselves."

In fact Riis is least interesting and persuasive when understood simply as a housing reformer. Insofar as he believed that we could "take the people out of poverty" simply by removing them from tenements, he has little to teach us. As the NRA might say (if those initials stood for the National Realtors' Association), "Slums don't impoverish people, people impoverish people."

Riis was not just a housing reformer, though. Ultimately he was more interested in and insightful about people than buildings. Patterson's characterization of the progressives applies perfectly to Riis: he was indeed concerned to "change the needy—to take the poverty out of people." The changes that he advocated, however, emerge in the context of often harsh judgments of the various ethnic groups that comprised New York's poor; these judgments are unacceptable, and they are particularly anathema to the left.

Although Riis was an immigrant himself, in today's terms he was far more of an ethnocentrist than a multiculturalist: the first half of *How the Other Half Lives* largely consists of on-the-whole unflattering group portraits of the Italian, Jewish, Chinese, black, and Bohemian communities of his day. Francesco Cordasco, editor of a 1968 reissue of selections from Riis's works, noted that he "suffered all the prejudices of his day"; Cordasco accused him of presenting "crude caricatures" of the "immigrant poor."

But this judgment, too, is not altogether fair to Riis, because it ignores the defensible moral standards in whose name Riis voiced most—though not all—of his critiques of the immigrant poor. Riis criticized no group so severely as the Chinese; accordingly, his treatment of them offers the best test of this qualified defense of Riis.

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Riis himself seemed uncomfortable with the harshness of his discussion of the Chinese: "I may be accused of inciting persecution of an unoffending people." We should certainly reject Riis's tendency to blame the Chinese as a group for the problems to which he called attention; it is important, however, to understand that genuine moral concerns—not simply a chauvinistic disdain for the practices of other cultures—underlay his argument. His attacks were directed against real vices and crimes: consumption of opium, gambling, and the rejection of governmental authority (specifically, the unwillingness to cooperate with police attempts to apprehend criminals).[1] Most notably, he criticized the irregularity of family life, which he attributed to the absence of Chinese women. Significantly, however, he blamed their absence on American immigration policy:[2]

> Rather than banish the Chinaman, I would have the door opened wider—for his wife; make it a condition of his coming or staying that he bring his wife with him. Then, at least, he might not be what he now is and remains, a homeless stranger among us. Upon this hinges the real Chinese question in our city.

Riis's apparent prejudice, then, culminated in a call to *increase* the immigration of the very group against which it was directed. By advocating the reunification of Chinese families, Riis proposed an environmental response to what he not unreasonably perceived as a condition that promoted immorality, through its encouragement of participation in the white-slave traffic. Riis believed, quite plausibly, that strong families, obedience to and cooperation with the law, and freedom from subservience to dehumanizing pleasures were virtues that would help the poor rise out of poverty.

So far as I am aware, Riis never commented on the irony of his being an immigrant (albeit from northern and not southern or

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[1]Nor were Riis's concerns the product of an hysterical imagination. Cf. Thomas Sowell's *Ethnic America: A History*: "Chinatowns in the last quarter of the nineteenth century were centers of vice, not only for the Chinese but for whites seeking prostitution, drugs, and gambling. The Chinese introduced opium into the United States. The white clientele of Chinatown vice districts were often ruffians and hoodlums, who added to the dangerousness of an area where tong violence might break out at any time."

[2]Riis seems to have diagnosed both the problem and its source correctly. Cf. Sowell: "Perhaps the greatest tragedy of the early Chinese immigration was that a people so dedicated to the family were denied the possibility of having families in America. After immigration from China was unilaterally curtailed in the United States in 1882, the result was a greater imbalance between the sexes than in any other ethnic group.... By 1890, there were about twenty-seven Chinese men for every Chinese woman."

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eastern Europe) who criticized the failings of other immigrants. He certainly was altogether self-conscious, however, in choosing to call his autobiography *The Making of an American*: Riis believed that America offered opportunity to those who embodied the virtues of hard work, obedience to the law, thrift, sobriety, and familial solidarity; he generally judged ethnic groups by what he thought was their capacity to embody these virtues and their eagerness to avail themselves of that opportunity.

Threats to moral integrity

The remainder of *How the Other Half Lives* focuses on attitudes and institutions, not ethnic groups. Riis considered the obstacles that threatened the moral integrity of the poor and proposed environmental reforms to enhance it. The importance of family and work to the lives of the poor were recurrent themes.

Prominent among the obstacles that Riis denounced was the saloon, the "omen of evil wherever it falls into the lives of the poor." Moralistic fervor of this sort may seem laughable to us, who have been so influenced by the failure of Prohibition. We should recall, though, that the failure of a war against a social evil does not prove that the evil is actually a social good in disguise. Thus McCarthyism's excesses do not invalidate anticommunism; similarly, the impracticality of Prohibition hardly demonstrates that opposition to widespread alcoholism was or is ridiculous.[3]

Much of Riis's opposition to the saloon stemmed from his belief that it posed a threat to family life among the poor. In *The Battle With the Slum*, a sequel to his better-known work, Riis noted that in a single week in a single New York ward "the demon of drunkenness" caused

> the destruction of eight homes[...:] the suicide of four wives, the murder of two others by drunken husbands, the killing of a policeman in the street, and the torture of an aged woman by her rascal son, who "used to be a good boy till he took to liquor, when he became a perfect devil."

Riis reserved particular scorn for saloon proprietors who flouted the law prohibiting sales to minors. *How the Other Half Lives* is replete with gruesome stories, but perhaps the most chilling tells of

[3]Note that differing perceptions of today's drug crisis are now yielding contradictory assessments of the merits of Prohibitionism: the lack of progress in the war on drugs has led some, reflecting on the failures of Prohibition, to advocate legalization; but the ravages caused by hard drugs have also led others to greater sympathy with the motives behind—if not the implementation of—Prohibition.

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a boy who was allowed to buy a large quantity of beer on a Saturday night. He bought the beer for a group of workers that included his father, who were holding a party at their shop. The boy got drunk and "crept into the cellar to sleep off the effects of his own share in the rioting." He was found "Monday morning, when the shop was opened,... killed and half-eaten by the rats that overran the place."

Riis detested drunkenness for the havoc that it wreaked upon the lives of the poor. He realized, however, that moral indignation is a reaction and not a policy; simply preaching to the poor about the evils of alcoholism would do little good. Accordingly, he tried to come to grips with the appeal of the saloon to the poor, by advocating alterations in their environment. He called attention to "the scandalous scarcity" of potable water in the tenements, and he hoped to improve the diet of the poor (in part by encouraging schools to teach cooking, "the only kind of temperance preaching that counts for anything").

Riis also understood the saloon's appeal, on a less material level, as a neighborhood center. It satisfied a desperate need for conviviality that would otherwise have gone unmet: "The dramshop yawns at every step, the poor man's club, his forum and his haven of rest when weary and disgusted with the crowding, the quarrelling, and the wretchedness at home."

Like the producers of the television show "Cheers," Riis recognized the appeal of a place "where everybody knows your name." In consequence, he was active in establishing clubs and settlement houses in immigrant neighborhoods. He hoped that respectable women would feel comfortable in these institutions, which were intended to provide a setting for companionship that was compatible with—not inimical to—the domestic virtues.

A second object of Riis's moral indignation was pauperism. Like many of his contemporaries, he insisted on distinguishing the pauper from "the honestly poor." He saw pauperism as a "moral distemper," because he believed that the self-respect of able-bodied men is incompatible with their accepting alms. The poor needed to develop "habits of thrift and ambitious industry," along with "steadiness, sobriety, and cleanliness," if they were to better their lot. He believed that "undiscriminating charity ... is worse than none at all," because it "degrad[es] and pauperiz[es] where true help should aim at raising the sufferer to self-respect and self-dependence."

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Because Riis was so unsympathetic to the plight of paupers, his condemnation of pauperism can seem excessively moralistic.[4] He did offer an environmental explanation of the disorder; he argued that tenements caused pauperism, in the sense that the beggars living within them tended to encourage imitators among their poor neighbors. The tenement environment did not, however, excuse pauperism; Riis argued instead that the prevalence of pauperism within the tenements demonstrated the need to eradicate them.

Riis's views of pauperism actually derived more from psychological insights than from any narrow moralism. A narrow moralist could not have argued, as Riis did, that thieves are preferable to beggars:

> The thief is infinitely easier to deal with than the pauper, because the very fact of his being a thief presupposes some bottom to the man. Granted that it is bad, there is still something, a possible handle by which to catch him. To the pauper there is none. He is as hopeless as his own poverty.

Riis's critique of pauperism, then, was based on a belief in the importance of the assertiveness of the poor. While thieves are more threatening than passive beggars, they at least display the self-assertion that is needed to succeed in legitimate endeavors offering a route out of poverty. Riis would not have spoken so harshly of paupers had he not been eager for the poor to escape poverty.

Notwithstanding his disdain for paupers, Riis was sympathetic to the plight of the unemployed; he realized that able-bodied men who genuinely sought employment often failed to find it. This was the context in which Riis's emphasis on the environment and the need to alter it came into play. In an 1892 magazine article he lay particular stress on the language barrier that confronted many immigrants, and on the need for labor bureaus to bring those offering work together with those in need of it. Thus Riis sought to enhance the ability of the immigrant poor to achieve gainful employment; he insisted, however, that the failure even to seek it was a moral failing.

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[4]Contrary to what one might expect, however, it is not at all ethnocentric. In fact, Riis observed that people's "preconceived notions" would be upset by "a review of the nationalities that go to make up this squad of street beggars." Recent immigrants from southern and eastern Europe were far less prominent than Anglo-Saxons, Germans, and Irish. Paupers were seldom immigrants themselves; instead they were chiefly the Americanized descendants of earlier generations of immigrants.

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Despite his moral concerns, Riis was fully aware of the moral ambiguities of the attempt to reform others. He realized that the saloon keeper often "understood the poor man's wants better than the reformer," who too often was guilty of sanctimonious paternalism. Alive to this danger, Riis once made the invaluable suggestion that "a professional humorist ought to be attached to every reform movement, to keep it from making itself ridiculous by either too great solemnity or too much conceit." Riis understood how reformers' pretensions toward superiority could grate on the poor: "No doubt it is very ungrateful of them, but the poor people have no desire to be reformed.... Preaching to them does little good; preaching at them still less."

Nevertheless, Riis did not romanticize the poor, which is why he was able to insist on their good behavior. Riis thought it hypocritical to pretend "that there is nothing [about the poor] to mend. There is a good deal, and it is not going to be mended by stuffing the one you would help with conceit and ingratitude." In a brief but insightful and even moving discussion of the proper reformist spirit, Riis argued for a middle ground between patronization and romanticization:

> You do not want to come *down* to your work for your fellows, when you go from the brown-stone front to the tenement; but neither do you want to make him believe that you feel you are coming up to him, for you know that you do not feel that way. And moreover, it is not true, if you are coming at all. You want to come right *over*, to help him reform conditions of his life with which he cannot grapple alone, and it is as good for him as it is for you to know that you are doing it.

Social control

Today we seem to be returning to something like the concern that Riis expressed for the moral environment of the poor. Between his time and ours, however, intellectual fashions changed radically. Riis's understanding of the moral ambiguity of the attempt to reform others was challenged by a belief in its unambiguous immorality. Specifically, many began to believe that moral reform could best be understood as a tool with which elites oppressed the underprivileged. In 1978 the social historian David Rothman usefully described the intellectual shift: "Where once historians and policy analysts were prone to label some movements reforms, thereby assuming their humanitarian aspects, they are

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presently far more comfortable with a designation of social control, thereby assuming their coercive quality."

The social-control thesis to which Rothman referred is animated by a suspicion of the authority of elites over subordinates, no matter how benevolent its purpose appears to be. The thesis has been developed in books ranging from Michel Foucault's critique of prisons (*Discipline and Punish*) to Frances Fox Piven and Richard A. Cloward's attack on welfare (*Regulating the Poor*). Its practical impact has been vast: among many other developments, the deinstitutionalization of mental patients, the elimination of eligibility standards for welfare recipients, and the abandonment of *in loco parentis* controls by colleges and even high schools over their students can all be understood as reactions against "social control."

The premise behind these alterations in policy was that the interests of more and less powerful groups necessarily clash: suspicion began to be directed against exercises of power by putative social elites, who were accused of being chiefly concerned to maximize their power by enforcing dependence on others.

To be sure, radicals are not alone in finding the arbitrary exercise of power worrisome. Nevertheless, the ire of the critics of social control has often been directed less at the power of arbitrary individuals than at the binding nature of moral principles that serve both to legitimate and to check power. Thus attempts by social reformers like Riis to alleviate poverty by remoralizing the poor came to be received with particular scorn: social policies ostensibly aimed at helping the poor were damned for actually seeking to control their behavior.

What is striking about this reaction is the unstated assumption that these two aims necessarily conflict: after all, it is at least conceivable that changing the behavior of the poor can help them in important ways. As Riis recognized, attempts to better others can easily prove ineffectual and even harmful. The critique of social control, however, attacks not faulty implementation but the premise behind all implementation: the mere attempt to promote the moral welfare of others in itself suffices to draw up an indictment. Accordingly, critics of social control have written passages like the following (taken from a collection of essays, *Social Welfare or Social Control? Some Historical Reflections on "Regulating the Poor"*): "[Late nineteenth-century] state charity boards ... sought to make the poor industrious, religious, temperate, thrifty, and self-reliant.... This emphasis on character building clearly

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marks the ... boards as agencies seeking to control the poor." No doubt that is true; still, it is remarkable that the charge is not that the boards *failed* to inculcate these qualities, or even that they should have applied other, more productive policies. Instead, the mere fact of attempting to inculcate the qualities is somehow made to seem criminal, and obviously to run counter to the true interests of the poor.

Those who attack social control purport to be democratic; they claim to approach history and social policy "from below" and to speak on behalf of the underprivileged. But in two respects, the critique of social control has more of an elitist tinge than the traditional policy prescriptions and historical analysis against which it has been directed. The critique focuses much more on the motives of social-service professionals and middle- and upper-class reformers than on the experiences of the poor. In addition, the moral perspective of workers is largely ignored; condescension toward ordinary moral virtues like sobriety, industry, and thrift is far more prevalent among intellectual elites than among the working class.

In fact, the attack on social control often seems to be motivated less by a humanitarian concern for the poor than by a fancied superiority to the morality of the bourgeoisie. For this reason, the critique of social control can most profitably be understood as the product of a larger rejection of moral norms. In Rothman's words:

> [W]e are witnessing the dissolution of the Progressive version of community as a viable concept, indeed the breakdown of normality as a viable concept. To many critics, there no longer seems to be a common weal that can be defined or appealed to as a justification for action. The very notion of a harmony of interests seems deceptive and mischievous. Not only can no one agree on what is good for all of us, no one can agree on what is proper behavior for any of us.

It is not obvious that contempt for ordinary morality is "leftist" in any meaningful sense. Nor is it clear what is leftist about the contention that humanitarianism is always a sham, beneath which lurks a lust for power that is the fundamental reality. These assumptions actually seem more characteristic of the hard, Nietzschean right. For this reason the popularity of the critique of social control on the left can best be understood as a manifestation of what Allan Bloom has called its "Nietzscheanization." Nietzsche is the unacknowledged intellectual source of the mocking disdain of humanitarian reform.

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Thus, writing in *Beyond Good and Evil*, Nietzsche delighted in exposing the psychological needs of would-be philanthropists:

> Among helpful and charitable people one almost regularly encounters that clumsy ruse which first doctors the person to be helped—as if, for example, he "deserved" help, required just their help, and would prove to be profoundly grateful for all help, faithful and submissive. With these fancies they dispose of the needy as of possessions, being charitable and helpful ... from a desire for possession. One finds them jealous if one crosses or anticipates them when they want to help.

Nietzsche's concern, it need hardly be said, was not that charity helps the poor less than would a socialist revolution; instead his intent was to attack benevolence as a manifestation of what he called herd morality. Like the critics of social control, Nietzsche understood humanitarian moralism as an attempt by elites to dupe the masses: in *The Genealogy of Morals* he condemned philanthropists' praise of "[m]echanical activity and what goes with it—such as absolute regularity, punctilious and unthinking obedience, a mode of life fixed once for all." Nor was he any more sympathetic with cooperative efforts by the poor to better their own lot; these too he derided, depicting the "associations for the poor, for the sick, for burial [that] evolved among the lowest strata of society" as creations of "the sick and sickly[, who] instinctively strive after a herd organization as a means of shaking off their dull displeasure and feeling of meekness."

Blaming the victim

Opposition to the creation of a moral environment for the poor has also been fueled by a second concern—the belief that solidarity with the poor precludes making distinctions among them. Many oppose judging the poor by the same moral standards thought valid for the nonpoor; they are reluctant to criticize the poor, to find some of them wanting. "Blaming the victim" (the title of William Ryan's influential 1971 book) is to be avoided at all costs.[5]

While it is, of course, possible to blame victims unfairly, the desire to avoid victim-blaming at all costs can also be counterproductive, insofar as it leads us to look backward rather than forward. Our chief concern ought not to be whether the poor are to blame

[5]It is this concern that underlies the recent campaign to banish the term "underclass" from our vocabulary. Consider the argument made by the sociologist Herbert Gans: "Labeling poor people as underclass is to blame them for their poverty, which enables the blamers to blow off the steam of self-righteousness."

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for having done something in the past that accounts for their current poverty; instead we should focus on what we and the poor might do to reduce their poverty in the future. If we emphasize how to get out of poverty (and not who is to blame for its current existence), concern for the moral environment of the poor is far more defensible.

Ryan's own book supports this claim. Ryan sought to downplay the significance of the problem of black single-parent families, and to deny that blacks should be blamed for illegitimacy. Blame may well be counterproductive; nevertheless, Ryan himself felt compelled to acknowledge that illegitimacy poses a real problem. Thus he denied "that a fatherless family represents the best of all possible worlds," and he conceded that "[t]wo parents are almost always better than one, and the psychological task of raising a reasonably effective child ... is a difficult one for a mother going it alone." Similarly, Ryan sought to depreciate the significance of ghetto crime and to argue against stigmatizing blacks as criminals. Once again, stigmatization is clearly unfair; but crime is also a real problem, and denying this does poor blacks no favor. Thus Ryan found it necessary to assert that "I do not in any way imply that crime is a trifling, or an unimportant matter. On the contrary, it is extremely important."

In a quaintly old-fashioned passage that no leftist tract today could conceivably include, Ryan even seemed to acknowledge something like a universal morality that is accepted across class lines. Hence he denied the existence of a culture of poverty, arguing instead "that ... every American beyond the first-generation immigrant, regardless of race or class, is a member of a common culture." But this is precisely why illegitimacy and crime are no more defensible among ghetto blacks than upper-class whites.

In practice, though of course not in principle, illegitimacy and crime are even less defensible among the poor. This is because the rich can at times afford to be (or can get away with being) immoral, whereas the poor seldom can. Sexual adventurism of various sorts can of course be found in the upper class as in the underclass, but its effect upon the underclass is far more likely to be calamitous. "Present-oriented" behavior certainly characterizes many of the rich as well as the poor, but wealth provides a cushion that mitigates the damaging effects of such behavior.

A nineteenth-century joke accused moralistic reformers of believing that only the rich had a right to have any vices. While

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unfair to the reformers, the joke also points to an important truth that we forget in our concern to avoid blaming victims. No one has a right to do wrong; in that sense, a moral double standard that demands more of the poor than the rich is obviously unfair. But to the extent that improvidence is more likely to harm the poor than the rich, as a prudential matter the poor really do have a greater stake in avoiding it. Regardless of whether immorality "causes" poverty, mundane moral virtues such as diligence, orderliness, and sobriety do make it easier to escape poverty. That is why a concern for the moral environment of the poor is appropriate, in fact imperative.

Jacob Riis understood this very well, but the point is made more clearly by a far more profound thinker, Adam Smith. In *The Wealth of Nations* Smith argued that two "systems of morality" could generally be found in any society at any given time—a "strict or austere" system and a "liberal, or, if you will, [a] loose" one. He contended that the loose system was found more often among the wealthy, and the austere system among the poor. That contention may seem paradoxical, but it should not. Smith argued that "wanton and even disorderly mirth, the pursuit of pleasure to some degree of intemperance, [and] the breach of chastity" did not always ruin the lives of the rich. Such behavior posed far more of a threat to the poor:

> The vices of levity are always ruinous to the common people, and a single week's thoughtlessness and dissipation is often sufficient to undo a poor workman for ever, and to drive him through despair upon committing the most enormous crimes. The wiser and better sort of the common people, therefore, have always the utmost abhorrence and detestation of such excesses, which their experience tells them are so immediately fatal to people of their condition.

Smith classified the poor morally, distinguishing the "wiser and better sort" from others. He did so, however, not to blame or punish victims but precisely to praise and reward those who avoided victimization. Good behavior, from which the poor and society as a whole benefit, is more likely to be found where its superiority is openly acknowledged. Further to encourage good behavior, Smith also endorsed the mechanism that was later denounced as social control. He did not, however, imagine that morality is something that elites cruelly impose on common people; in his view, common people need to and do impose it upon themselves, if they are to survive in poverty and advance out of it. The creation of a moral

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environment did not condemn the poor to servitude, but instead was a means to the end of their liberation.

Smith rested his hopes for such a moral environment in the proliferation of small religious sects; he believed that the sects would help guarantee the morality of those poor people who had recently migrated from small rural communities to large cities, in which the poor were effectively anonymous:

> As soon as [a poor man from the country] comes into a great city, he is sunk in obscurity and darkness. His conduct is observed and attended to by nobody, and he is therefore very likely to neglect it himself, and to abandon himself to every sort of low profligacy and vice. He never emerges so effectually from this obscurity, his conduct never excites so much the attention of respectable society, as by his becoming the member of a small religious sect.[6]

Nor is Smith's argument simply of historical interest. Clearly, small religious groupings of various sorts—notably among evangelical Protestants and Black Muslims—continue to perform this same important moralizing function in hundreds of poor communities today.

Naive and sentimental?

In his essay Rothman noted that "contemporary analysts" cannot help feeling "nostalgic" for the progressives' "remarkable consensus on the goals for reform," now exploded:

> There was no crisis of values that had to be debated, no agonizing consideration of the comparative worth of different life-styles. To Progressives, all Americans were to enter the ranks of the middle class.... Everyone was to respect private property, send their children to school, and give up whatever vices—particularly intemperance—that they might have brought with them from the old world, in order to become hardworking and law-abiding.

It is not obvious that respect for property, the desire for upward mobility through educational opportunity, regard for hard work,

[6]Not surprisingly, Riis too advocated "social control" in this original, nonpejorative sense. "[A]t the bottom of half our troubles with our immigrant population," he noted in his autobiography, lies "the loss of reckoning that follows uprooting; the cutting loose from all sense of responsibility, with the old standards gone." Something of a secularist, Riis praised public schools and settlement houses more than churches for their role in "help[ing] tie the citizen to one spot long enough to give him the proprietary sense in it which is the first step toward civic interest and pride." He, too, however, lamented the fact that there were barely a hundred "places of worship of every kind below Fourteenth Street, [as compared with] 4,065 saloons."

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and obedience to the law should ever have seemed particularly controversial; it is certainly not apparent that their denigration meaningfully benefits the disadvantaged. And yet Rothman denied that we can or even ought to attempt to restore something like the progressive consensus: "[T]he belief in the superiority of their values and all that meant to their ability to define and to attempt to implement the proper life-style in all citizens and classes ... have disappeared and can hardly be resurrected."

However admirable the progressive reformers may have been, Rothman suggested that our more skeptical contemporaries are wiser (if sadder): they understand the full complexity of the moral and practical difficulties involved in creating a moral environment, difficulties that the progressives naively ignored or glossed over.

Rothman's contrast between the progressives and their successors brings to mind a comparison made to explain a very different intellectual endeavor. In an important essay, the German poet and playwright Friedrich Schiller contrasted what he called naive and sentimental poets. Naive poets, like Homer, are what we might call "naturals"; their creations are spontaneous, immediate, unself-conscious, and confident, because they sense an (illusory) accord between man and nature. Sentimental poets, like Schiller himself, by contrast, are intellectual, self-conscious, and aware of the difficulty of their task, because they correctly sense "the *unnaturalness* of our situation"; they are characterized by a "superiority in ideas." Schiller remarks on the "painful nostalgia" that we feel for an age in which men "were children of nature" (as opposed to feeling a "longing for nature").

In Rothman as in Schiller, nostalgia for what we have lost is coupled with a certain condescension toward what we now know enough to leave behind us. But condescension to the attempt to create a moral environment for the poor is wholly inappropriate. Riis was by no means the most intellectually sophisticated progressive reformer, but as we have seen, he was quite aware of the pitfalls, difficulties, and moral ambiguities involved in the attempt to moralize the poor; he was far from being naive. What is naive (as well as sentimental, in the ordinary as opposed to Schillerian sense) is the belief that we have outgrown the quest for a moral environment as we have matured. Such a belief characterizes many of the critics of social control. Even so thoughtful a historian as Paul Boyer, for instance, can write that the quest to moralize

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the urban masses was abandoned after 1920, as the realization dawned that "[t]he pressing urban danger was ... not in disorder and degeneracy, but in a sterile conformity."

I would suggest that we know better today. The renewal of concern for the moral environment of the poor constitutes a tacit acknowledgment that there are worse things in heaven and earth than are dreamed of in the social-control philosophy. It is not naive to combat urban disorder and degeneracy; it is naive to suppose that sterile conformity is our most pressing urban danger.

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It ain't what they teach, it's the way that they teach it

DAVID P. BRYDEN

AS WE ALL know, a great curricular debate rages in our universities. On one side are the defenders of Western Civilization courses, and more generally of the canon of "Great Books" that have traditionally been considered the core of a liberal education. On the other side are proponents of "multicultural education," who propose to replace or augment the canon with required courses in gender and ethnic studies, with numerous works by women and "people of color," and with discussions of the relationships between literature and the "structures of power."

The arguments on both sides have become familiar. Traditionalists acknowledge the sins of Western civilization, but they believe that its accomplishments are inspiring and worthy of study: its faults are common to all of mankind, but its virtues—particularly individual freedom—are unique. In any case, traditionalists add, our culture and institutions are Western in origin and can be understood only if we study the West's legacies of individualism, freedom, and so on. Traditionalists endorse the study of other cultures, but they want us first to understand our own.

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Another virtue of the canon, say its defenders, is that it comprises works that have stood the test of time and fashion. *Hamlet* is not merely more influential than, say, *The Color Purple*; it is a far greater work. Its value is not limited by Shakespeare's race, nationality, class, and gender.

The critics of traditional Western Civilization courses, for their part, are equally adamant in insisting that the canon reinforces historical patterns of racial and sexual domination. All students, but particularly women and members of racial minorities, need to be liberated from the smug assumptions that underlie a canon chiefly made up of the works of "dead white males." In its most extreme form, this argument rests on a breathtaking cultural relativism that disparages all universal standards of excellence. A more moderate argument stresses the changing racial composition of our society and student bodies. We are no longer an Anglo-Saxon nation, and soon we will no longer be even a predominantly white nation. Thus the canon no longer embodies the heritage of society at large. In addition, canon critics assert that we have much to learn from other cultures, including those that have been subjugated by the West.

Curricular concerns

My own sympathies in this debate are with the traditionalists, but not primarily for the reasons that they usually advance. Constructing a sound curriculum is more difficult than the traditionalists generally suggest, in the sense that any required curriculum arbitrarily excludes many highly important subjects. Given our commitment to a largely elective college education, this is inevitable.

One can fashion a plausible rationale for dozens of required courses. I myself would begin by requiring every college student to master the rudiments of economics. Before graduation, students ought to be able to explain, for example, the role of the Federal Reserve, and the effects of tariffs, deficit spending, inflation, the minimum wage, and farm subsidies. They should be able to distinguish conclusions that can be justified solely by economic reasoning from those that cannot. So far as I know, few traditionalists have been campaigning for such a course; they believe, evidently, that *Don Quixote* is more fundamental than *The Wealth of Nations*.

I also believe that every college graduate should be familiar with the Bible, the history and main doctrines of the major Christian

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denominations, and at least the chief tenets of the other leading religions. Shouldn't every college graduate know, for example, what Muslims believe, where they live, and the history of their relations with other peoples? Again, this theory seems to lack wide support among defenders of the canon.

One of the justifications for studying great literature is the insight that it is thought to offer into the human mind. But mightn't that subject be studied more directly and rigorously, through a required introductory course in psychology? I have in mind a rigorous course about what we do and do not understand about the mind. Among other topics, it would examine the respective roles of nature and nurture, the uses and abuses of psychological and intelligence tests, and the character and origins of the differences between male and female modes of thought.

One needn't be an ardent multiculturalist to favor requiring students to immerse themselves in a foreign culture, preferably one whose values offer stimulating contrasts, for better and worse, with our own. A Native American culture would be one politically correct possibility, but a teacher might instead select a major slave-owning civilization like ancient Greece, or a disciplined, hierarchical Asian society like premodern Japan. If I were an educational dictator, every student would read *A Daughter of the Samurai* and *The Greek Way*.

A case can surely be made for a required course in American constitutional history. Shouldn't every educated American know at least the rudiments of how we got our rights, and how they are enforced? Some will object that the evolution of liberty didn't begin with the Founding Fathers. Very well, let us study the origins of free institutions in England—or perhaps in Periclean Athens.

But it would be odd to enroll students in a constitutional-history course without first requiring them to take a general introductory course in American government. And it would be equally odd to study American government without learning American history.

There also ought to be room in a required curriculum for a careful examination of the sociology of political freedom. Why are democratic institutions so rarely found? Is democratic socialism a realistic possibility, or is capitalism a necessary (though insufficient) condition of political liberty?

Is it acceptable for our students to be wholly ignorant of the history of our neighbors in Canada and Latin America? In an era when Japan looms so large on the world stage, can they afford to

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be ignorant of its culture and history? What shall we do about the history of the rest of the world, ancient and modern? That alone could easily occupy three or four years of required courses.

One could also easily justify required courses in music and art, public speaking and expository writing, foreign languages, and natural sciences. I have mostly ignored the canon of great literary and philosophical works, yet my imaginary curriculum is already overflowing with plausible required courses. Plainly, any conceivable required curriculum, whether traditional or non-Western reformist, would cover only a small fraction of what every educated person ought to understand. Why, then, are we so agitated about proposals to add more works by women and minorities, perhaps supplemented by discussions of race, gender, and class? These additions would inevitably displace other fundamental subjects or works, but the same can be said of more traditional courses, such as courses devoted to the great novels in the canon.

The political battle

If the main issue were curricular, compromise would be both essential and—one would think—feasible. The curricular conflict would simply be another academic squabble, albeit on a higher plane than most. Any well-chosen committee could design a curriculum composed of truly worthwhile courses. And on a curricular level, many of the proposals advanced by multiculturalists are altogether plausible. There is much to be said for a required first-year course on race, sex, and class, or one on inequality in America; the subjects are certainly important, and students find them fascinating. (Motivation, remember, is the fuel of learning.) While I might prefer some other, more traditional offering, I would have no strong objection, in principle, to such courses.

Unfortunately, the problem underlying today's battle of the books is not really curricular. The dispute is not over what subjects to teach, but rather over what to teach about them. It is not an abstract question of curricular principle, but a concrete political struggle. The question is not whether our students should study slavery and racism, but whether they should be taught that racism is the fundamental social fact in our country, and that ours is a pervasively racist civilization; not whether they should study gender but whether they should be taught that all differences between the sexes in inclinations and achievements stem from men's oppression of women; not whether they should study the great works of

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Western literature, but whether they should learn that those works are reflections and rationalizations of the manifold injustices for which the West is uniquely responsible.

The substantive thrust of curricular reform is often veiled by compromises and euphemisms, but it has been openly avowed by a group of University of Minnesota students who call themselves the International Committee Against Racism. Their literature declares that "the essence of university education is racist." To counteract this racism, the committee calls on the university to institute "courses that deal head-on with the history of racism—against Native Americans, Peoples of African descent, Hispanic Peoples, Asians, Jews and Arabs. Such courses should be required of all people at the University, not just students."

The point, in other words, is not so much to study racism as to extirpate it by consciousness-raising. For this purpose, conservative and centrist views are obviously unacceptable. It will not do, for instance, to teach—or even to give a polite hearing to—the idea that racial discrimination is no longer a major impediment to black economic progress, or that affirmative action is counterproductive or unfair, or that some of the most important experiences of a black woman may have more to do with her humanity, or her nationality, or her individuality, than with her race or sex. To entertain such propositions, to ponder them seriously, would defeat the purpose of the course.

The canon, by contrast, does not require the teacher to adopt any particular political slant, any more than a traditional history course does. Traditional courses in Western civilization have been taught by scholars of every ideological hue. A Marxist should have no difficulty dealing with *The Federalist*, and teachers who are so inclined can treat just about any novel as a case study of the oppression of women. Without violating any of the taboos of the university culture, a political conservative or liberal or radical can comfortably teach a conventional history or humanities course.

In principle, the same should be true of courses focusing on race, class, or gender. Such courses could be taught by professors of disparate political ideologies. The subject of gender, for example, is not in principle either liberal, conservative, or radical, nor is it intrinsically either heterosexual or homosexual. A course on gender could be taught by Steven Goldberg, George Gilder, or Michael Levin. Similarly, Thomas Sowell, Milton Friedman, or Charles Murray could teach a course on racial problems. A

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required course on class and inequality could be taught from any political perspective. The literature on the so-called "New Class," for example, is full of conservative insights. One might study the antibourgeois, antimarket prejudices of intellectuals, or the ways in which pet liberal causes such as rent control benefit the well-heeled. The reading list could be long on Kristol and short on Marx. The teacher could consider the class structure of the Soviet Union, perhaps concluding that—when due account is taken of the privileges of the Soviet elite—inequalities there are as severe as in America, without being redeemed by the advantages of capitalist society.

In practice, however, courses about class and power usually attract radical teachers and repel moderates. The reading lists are predominantly if not exclusively antibourgeois and statist. Although in a superficial, formal sense a required course on race, class, and gender might enhance curricular diversity, in a substantive, political sense it would simply reinforce leftist points of view that are already dominant in the universities. The claim that such courses foster "diversity" is Orwellian.

Women's Studies courses are a case in point. Although the subject is formally nonpartisan, in practice such courses are dominated, disproportionately, by feminist—often radical feminist—perspectives. In practice, lesbian and socialist ideologies are heavily emphasized. Likewise, any course now offered in a major American university on race relations or inequality is likely to stress politically correct analyses of racial problems. Orthodox liberal prescriptions may be questioned, but usually from a radical rather than a moderate or conservative perspective.

Certain fundamental subjects are taught—disproportionately if not exclusively—by professors of more or less predictable political views. Most courses on subjects about which conservatives and liberals disagree are taught by liberals and radicals. In the law schools, for example, environmental law, constitutional law, civil rights and liberties, and criminal procedure are taught, nine times out of ten, by orthodox liberals (plus an occasional radical). There are many moderately conservative law professors, but they generally eschew politically controversial subjects, choosing instead to teach taxation, commercial law, securities regulation, and other relatively apolitical courses that radicals usually find uninteresting. The same phenomenon can be seen in the university as a whole: conservatives and moderates abound—in medicine, engineering,

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business, agriculture, and sprinkled throughout other disciplines as well. But except in economics and sometimes political science, most of them are politically neutered technicians, like the law professors who teach business law.

There are probably several explanations for the left's dominance of most courses about politically controversial subjects. For one thing, political moderates are less likely than extremists to view all life through political lenses. In American universities, faculty extremists are nearly all on the left: conservatives are never fascists and are rarely even devout Reagan Republicans. They are usually moderates who, being less obsessed with politics, are less attracted to intensely political topics and theories. Equally important, in the modern university the most vocal and aggressive students—those "full of passionate intensity"—are usually on the left rather than the right. The *Dartmouth Review* notwithstanding, conservative students are typically individualistic, careerist, and deferential—not the sort who cut classes to stage a protest, or who get fighting mad when they disagree with a teacher.

This passion gap creates an enormous power imbalance. A teacher who defends liberal or radical positions may fail to persuade his students, but he has no reason to fear them. The situation of a relatively conservative teacher is quite different: if he criticizes school busing to achieve racial integration, affirmative action, the presence of women in the military, or the legalization of homosexual marriage, he will be constantly criticized by angry students, if not by his peers and his department chairman.

As a class, professors are probably even more timorous than most people, and so they naturally tend not to teach courses in which many students are likely to be angered by their opinions. It would not be easy to find a highly prestigious university at which even a feisty conservative like Jeane Kirkpatrick could teach international relations without being worn down sooner or later by constant attacks from students—if indeed she was allowed to speak at all.

Even trivial departures from politically correct manners are often punished. Consider the case of Stephan Thernstrom, a professor at Harvard and a leading scholar in the field of race relations, who edited *The Harvard Encyclopedia of American Ethnic Groups*. For several years Thernstrom and the well-known historian Bernard Bailyn taught an undergraduate course called "The Peopling of America," devoted to the history of ethnic relations in

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our country—the sort of multiculturalist course that students could plausibly be required to take.

Thernstrom and Bailyn's experience is instructive. Although neither is conservative, the *Harvard Crimson* accused them of "racial insensitivity" in their teaching. At first the accusation was vague and its source anonymous. Eventually the accusers came forward with a six-page bill of particulars. Bailyn, they alleged, had read from the diary of a colonial-era southern planter without giving equal time to the recollections of any slaves. The students seemed to regard this as indicative of a pro-slavery bias, even though—as Bailyn had explained to the class—no diaries of slaves from that period have been discovered. Thernstrom's transgressions were similar. He had used the word "Indians" instead of "Native Americans"; he had assigned a book that mentioned opposition to affirmative action; he had endorsed Daniel Patrick Moynihan's theory that the disintegration of the black family is a cause of black poverty. All of these actions were "racist." Faced with the likelihood that the course would be just as controversial in future years, and disinclined to become famous for his racial insensitivity, Thernstrom finally decided to drop the course, which is no longer offered at Harvard.

Politicization past and present

Experiences like Thernstrom's are now beginning to receive the publicity and condemnation that they deserve. But what, precisely, is the ailment of which such events are symptomatic? According to one diagnosis, the ailment is "politicization," coupled with "indoctrination" by radical teachers. These labels are useful, but like most shorthand terms they are somewhat vague and misleading. What would it mean, for instance, to say that the events in Thernstrom's course show that universities have become "too political"? Suppose that Thernstrom had been a deconstructionist or a radical feminist, and that certain of his students had told the *Crimson* that "this idiot shouldn't be teaching," citing as evidence silly statements made by him in class. I for one would have applauded their criticism. Yet their action would have been just as "political" as the protest that actually occurred. The only difference is that in my hypothetical case the students would have been right.

Certain types of indoctrination are inevitable, or desirable, or both. As someone has said, you can't even teach reading and writing without implying that they are important. But I have in mind a

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more explicit and more political type of indoctrination. The education that I received (at Harvard College in the 1950s) was excellent, and yet—in a nonpejorative sense—it was full of political indoctrination. The "party line" among Harvard political scientists, for example, was anticommunist—as "political" a stance as one advocating communism, declaring that heterosexuality is oppressive, or characterizing the West as evil. Yet support for these leftist ideas is sometimes called "political indoctrination."

Granted, there are important differences between campus politics in the 1950s and today. Words like politicization and indoctrination capture some of those differences. In today's university, a course about the nineteenth-century American novel might well include mediocre works chosen because the authors were women or blacks. In a course with an historical orientation, such works might have a place; but they do not belong in a course designed to instill an appreciation of fine literature. Their inclusion is an example of misguided egalitarian zeal. The same could be said of an introduction to Shakespeare that focused chiefly on his attitudes toward women and the poor, ignoring or downgrading the most beautiful poetry ever written in English. Errors like these can fairly be seen as the products of politicization.

Today's campus orthodoxies are enforced less by civilized discussion than by academics' pervasive fear of being labeled racist, sexist, or "homophobic." University debate today is far more stifled than it ever was in the 1950s by McCarthyism.

But let us be exact. Except in courses where politics is out of place, the problem is not that the radicals' opinions are political; the problem is that they are dumb. When a professor says, for example, that most heterosexual sex resembles rape or that law faculties reject qualified blacks because they are afraid of "looking too much like a basketball team," the proper response is not to accuse him of being too political. Foolish professors should be deplored because they are foolish, not because they are political.

Diversity of opinion is not an end in itself, and not all orthodoxies are malign. Concerning matters about which reasonable thinkers differ, we should seek diversity—even if we believe that one side has the better arguments. To some extent, diversity of opinion serves as a rough substitute for the rare qualities of intellect and temperament that make some scholars judicious: sometimes two sloppy thinkers are better than one.

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I believe in diversity of law-faculty opinion, for example, about the role of the Supreme Court in our society: powerful arguments can be made on both sides of that issue, and each side usually overstates its case. But I would not be disturbed to find that a required course in economics inculcated pro-market convictions. Since I do not believe that there are plausible arguments for real-world socialism, the absence of socialists in an economics department would not disturb me at all—however much I might value the ideas of a particular socialist about, say, the history of slavery. I could rephrase the point, in terms that would sound politically neutral, by saying that I don't want socialism taught because "I fear that it would be propagandized rather than examined, and would receive more time than its scholarly importance warrants." Ultimately, however, such arguments rely on the fact that socialism doesn't work.

By the same token, my objection to multiculturalism is less that it is "too political" than that it is too closely associated, in practice, with dogmatic and badly-mistaken egalitarian creeds. The problem, in other words, is only partly that the university culture is fiercely intolerant of political heresy; the real difficulty is that some of its central orthodoxies are false.

Shall we simply say, then, that egalitarian fanatics have become too influential in the universities? Surely that is one of the problems, and probably the most pressing one. It is, moreover, a problem that enlightened liberals, as well as conservatives and moderates, can readily discern. Even some old-fashioned socialists—Irving Howe, for instance—have attacked the thought police and defended the canon against what Howe describes as a "populist" assault. The differences between thoughtful liberals and thoughtful conservatives are microscopic compared with those that separate both groups from populist or totalitarian ideologues. Traditional academic values are nonpartisan in the sense that individual scholars of virtually all political persuasions can defend the canon and reasoned inquiry without betraying their own political convictions. Allan Bloom deplores the mindless left; so does Eugene Genovese. Russell Kirk loves the classics; so did Leon Trotsky.

Tactically, academics are wise to advance arguments that stress the importance of the university's political neutrality; in principle if not in practice, the desirability of a nonpartisan university is generally acknowledged. In their different ways, both sides in the debate over the canon seem to recognize that liberal academics

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will support only those who profess to respect this principle. That is why the issues of multiculturalism are often treated as though they were purely curricular rather than political. This is certainly so on the left: had its members been more astute politically, the International Committee Against Racism would not have demanded courses propagandizing politically correct views. Instead it would have called for "inclusion of people of color" or for a course about racism. The ambivalent liberals who are the swing voters on such issues find the latter concepts attractive and the former—at least in the abstract—repellent.

Even on the traditionalist side of the debate, there may be political justifications for presenting curricular issues as though they were apolitical. Ambivalent liberals can be persuaded that *The Iliad* is a great book that should not be dropped from a list of required readings; they are less willing to hear that the left is too powerful in the universities, or that the views of the far left are preposterous. The former type of argument appeals to the meritocratic sentiments that often coexist with political liberalism, while the latter sounds like a partisan conservative polemic that may even foreshadow a McCarthyite interference with academic freedom.

The role of the respectable left

To some extent, however, the problem in the universities is obscured by ritualistic invocation of the importance of political neutrality. From a sociological point of view the problem of the loony left cannot be neatly separated from the hegemony of the respectable left. Multiculturalism and allied phenomena did not arise *ex nihilo*. What we face, after all, is not populism, looniness, or lowered standards in general; instead we face a specifically leftist type of populism, looniness, and lowered standards. And the respectable left—not merely the radical fringe—bears some responsibility for this development.

The campaign for multicultural curricula is closely related to affirmative action. The respectable left is, of course, heavily committed to affirmative action. Ostensibly, affirmative action is politically neutral, except insofar as one characterizes the use of racial criteria as "political." But affirmative action is also political in another sense. One of its effects is to tighten the left's hold on the universities. It's not just that minorities are, on average, more liberal than whites: affirmative action encourages them to become even more liberal (or radical) than they were before.

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Consider first minority scholars. By its very nature, affirmative action induces them to reject offers from schools at which they would be above-average or average, and to accept positions on faculties where they are likely to be subpar. Inevitably, this makes it more difficult for them to compete intellectually with their closest white peers. This in turn makes segregated branches of scholarship and teaching like Black Studies more attractive to minority scholars. In these fields they can form their own hierarchies, and they can enjoy moral stature and presumptive insight because of their race. They naturally come to regard such fields as their academic turf—the faculty equivalent of African-American dorms. In this way, a respectable liberal program—affirmative action—provides recruits for the left in general and for multiculturalism in particular.

Affirmative action in student admissions has the same effect; it creates a proletariat of marginal students who experience extraordinary academic difficulties. They must wonder why they are having such a hard time. One possible explanation is that they are too stupid to do college work. This explanation is usually untrue and always unsatisfying. Another explanation is that affirmative action is a sugar-coated trap. This is true, but it is unsatisfying unless one is prepared to break loose from the trap and enroll elsewhere, at a school with less prestige and (typically) less generous scholarships. The remaining explanation, that racism has caused their problems, is relatively satisfying. Not only does it protect the students' egos, it serves also to rationalize the understandable communal, separatist instincts of a group that—thanks to affirmative action—is in constant academic danger. Although untrue in some respects, and potentially harmful to the minorities who entertain it, the perception of pervasive racism is consistent with much of what blacks and whites alike have been taught throughout their lives—in and out of school, implicitly and explicitly—by respectable liberals. Is it surprising that some of them want required courses about racism? It would be much more surprising if they didn't.

The major premises of affirmative action are that large disparities between black and white achievements are due solely to past and present racism and that preferential treatment is an appropriate remedy. "Victim studies" courses are not an ineluctable deduction from these premises, but they are an eminently logical one, in some ways as much so as affirmative action itself. If role models on the faculty will raise the self-esteem and performance of black

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students, as respectable liberal scholars commonly believe, wouldn't courses about racism and "role models" in the reading lists serve the same purposes? If, as Justice Powell asserted in his *Bakke* opinion, minorities contribute distinctive perspectives to class discussions, why wouldn't assignment of more novels by blacks and Hispanics have the same beneficial effect?

Even apart from affirmative action, the respectable liberal hegemony nurtures campus radicalism. Political sects tend, collectively, to be excessively tolerant of extremists, simpletons, and demagogues with whom they feel some kinship. (This may be as true on the right as on the left; but in the context of modern American universities, the sins of the right are largely irrelevant.) The respectable liberals who control our universities are the family in which the deconstructionists, the radical feminists, the neo-Marxists, and the multiculturalists are the naughty children. Like other naughty children, they have protective mothers and indulgent grandparents as well as stern fathers. Show me some loony radical professors—black or white, male or female—and I will show you people who, more likely than not, have received enthusiastic support from respectable liberals—when they were hired, when their writings received glowing reviews, when they got tenure, and when they were offered visiting professorships or chairs.

Law schools are a good example. The post-Vietnam generation produced the proponents of Critical Legal Studies (CLS), whose neo-Marxist stands became notorious, especially at Harvard, where they are a major faction on the faculty. Most observers treat these radicals as a discrete problem, and indeed as *the* political problem in the law schools.

But the CLS scholars comprise only a minute fraction of most law faculties; many schools don't have a single full-blooded Crit. They would not have been promoted and celebrated if the law schools had not already been essentially one-party institutions. True, most liberals have some reservations about CLS, and a few have publicly criticized radical legal scholars. But all power is relative. Radical scholars are weak relative to mainstream liberals. Relative to mainstream conservatives, however, they are extremely strong; this is because they enjoy support from influential liberals, including many of the most eminent law-school professors and deans.

On the whole, liberal law professors usually prefer outspoken radicals to outspoken Reaganites. They tolerate the law-and-eco-

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nomics type of conservative, because they have a certain grudging, professorial respect for elaborate economic arguments, and because this sort of conservative often does not sharply challenge liberal opinions on today's gut issues—race, gender, crime, religion, sexuality, and the like. But the liberal law professors loathe *social* conservatives. As a group, the respectable liberals have mixed feelings about Fidel Castro and Catharine MacKinnon, but their feelings about Ronald Reagan and William Rehnquist are not at all mixed; they are intensely and uniformly hostile.

If all the CLS scholars were somehow purged from the law schools, the *Wall Street Journal* would have no Derrick Bells and Duncan Kennedys to lament, and Harvard's alumni could go back to sleep. But most of the public-law courses in our law schools would still be taught in accordance with a simplistic liberal orthodoxy whose power the Vatican might envy, especially on all issues affecting the holy trinity of race, gender, and sexual orientation.

Even before the collapse of communism, feminism had begun to replace CLS as the avant-garde leftist ideology among legal scholars. Although many law professors privately smirk at the most absurd radical feminist arguments, in public few dare to disagree with any type of feminist except in elaborately respectful terms. It would require some courage for a law professor to tell his class that he opposes abortion, favors an all-male infantry, or dislikes government-funded day care; few if any of the students who agreed with him would participate in the ensuing class "discussion."

I know law professors who no longer cover rape in their criminal-law courses; as one put it to me, "It's not worth the hassle." As liberals who are normally exceedingly concerned about defendants' rights, they are afraid that they will offend militant feminists. I know other liberal law professors who privately detest radical feminists but are afraid to review feminist books, because they don't want to ruin their reputations among feminists at leading law schools. Needless to say, they have no such fear of offending conservatives, and eagerly accept opportunities to denounce works by the likes of Bork and Posner.

In the fields of environmental law, civil rights, and criminal procedure, the respectable left reigns supreme. Most law professors would be hard-pressed to name even one conservative scholar in any of these areas, and if they could name one they surely would not want him on their faculty: outspoken conservative law professors are almost never upwardly mobile.

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How many conservatives teach politically controversial subjects in our major law schools? If we are talking about orthodox conservatives of the *National Review* type, the answer is that our leading schools have hardly any. In law-school terms, a "conservative" is anyone who has publicly dissented from any tenet of liberal orthodoxy—for instance, by expressing doubts about judicial activism. Even by that exceedingly latitudinarian definition, most of the top faculties have only a couple of outspoken conservatives.

Yet we in the law schools generally abide by the traditions of reasoned inquiry and civility. We are, in other words, pretty close to the "nonpolitical" ideal espoused by the traditionalist National Association of Scholars. We have no disputes about a canon. No one chants, "Hey, hey, ho, ho, Western law has got to go." No one calls for the assignment of more opinions by black or female judges, or for courses in African law. We have some Marxist and feminist seminars, and we may eventually get required courses of the victim-studies type. But so far our required courses are traditional, and the careerism of law students provides a natural check on curricular innovation. Even so, the law schools are part of the battle that, at the undergraduate level, is sometimes described as a debate about the canon, the curriculum, and political neutrality.

The basic problem, in short, is that most of our universities are essentially one-party institutions, even more so than if they were owned by the Democratic party. For if they were owned by the Democratic party, their liberalism would be moderated by the worldly cynicism and maturity of politicians, as well as by the attitudes of average American voters. As it is, universities bear less resemblance to the Democratic party than to a seminary for party ideologues, and one, moreover, in which some of the novices—our students—are eager to expose heretics.

So let us continue the debate about the canon, but let us realize that the struggle in the universities is not really about the curriculum. Until we have a solution for the underlying political problem, it is misleading to discuss the relative merits of James Baldwin and Thomas Hardy, of the history of the slave trade and Thucydides, of courses that focus on the social contexts of canonical works and courses that treat great novels simply as literature. To be sure, the battle has been joined over the curriculum, so a curricular response is necessary; it should be one that colleagues of intelligence and good will can support, whatever their political views. All else being equal, some courses and some books are

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indeed far better than others. Let us continue to defend them. But we delude ourselves if we think that the fundamental problem is curricular. A curricular debate is about what should be studied. Our debate is at bottom about how it should be taught. Let me name the teachers and—within reason—you can name the courses.

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The phantom epidemic of sexual assault

NEIL GILBERT

NEWSPAPERS and television broadcasts have recently reported that a plague of sexual assaults is sweeping the country. Detailed accounts of this problem appear not only on Oprah and Geraldo and in the *National Enquirer*, but also in steadier sources such as *Time*, the *New York Times*, and network newscasts, all of which claim that we are in the midst of a "silent epidemic." The epidemic is said to be silent, in part, because it involves a wide range of behavior that is not yet understood to be abusive. The feminist movement seeks to eradicate it by advancing programs that teach and enforce radical prescriptions to alter intimate relations between adults and children, and between men and women.

Reports of the epidemic frequently quote experts on social relations who present the kind of figures that incite moral panic and lend urgency to the call for public action. Thus a recent story in the *Los Angeles Times* cites a study of 3,200 California schoolchildren, 19 percent of whom "had told an adult that they were being sexually abused." Additionally, 25 percent of the children in this study reported that "they had gotten away from someone trying

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to kidnap them." Assuming that only a small proportion of respondents experienced both types of assaults, altogether about 40 percent of the children surveyed were victims of either sexual abuse or attempted kidnapping.

Isn't such a figure unbelievably high? Not to some, such as the University of Chicago professor of social work who conducted the study; in his view, the results simply indicate that California's extensive statewide program to provide children with training to prevent sexual abuse "is effective in teaching youngsters how to deal with the threat of physical and sexual abuse."

While the finding that 25 percent of the children surveyed in California were victims of attempted kidnappings cannot be taken seriously, the claim that 19 percent of children have been sexually abused is conservative compared with other estimates continually recited by authorities in this field. At least fifteen surveys conducted since 1976 have attempted to gauge the prevalence of sexual abuse of children by tabulating victims' reports; although one of these studies shows that 6 percent of women have been sexually abused during their childhood, another puts the figure at 62 percent. The most frequently repeated forecast is that one girl in three or four will be sexually molested before leaving high school.

From age eighteen to the early twenties the figures are equally alarming, particularly for college women. Mary Koss's survey of 6,159 college students, sponsored by *Ms.* magazine, is the most widely cited study of sexual assault on campus. Her findings (reported in the *New York Times*, *Newsweek*, the *Boston Globe*, and *Time*, among other publications) reveal that at some time in their lives, 15 percent of the female students had been raped and another 11 percent had experienced an attempted rape, usually by an acquaintance. Forty-one percent of the women raped were virgins at the time of the attack. Less frequently cited is the finding that in just one year on college campuses, the 3,187 female respondents in this survey reported suffering 862 incidents of rape or attempted rape. While many of these women experienced more than one episode, this annual count represents a level of sexual assault that would claim victim to the vast majority of women at some point in their college careers.

These results are bolstered by several smaller studies and impressionistic accounts. For example, interviews of 930 women in San Francisco led Diana Russell to estimate that at least 46 percent of American women will be victims of rape or attempted rape

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at some time in their lives. A survey of 2,400 students at Stanford University reveals that one-third of the women have suffered incidents of date rape. Offering a more intuitive view, the coordinator of the Rape Prevention Education Program at the University of California's Berkeley campus reports that from her observations of campus life, female students stand a one-in-four chance of being raped by an acquaintance. Another expert in the field, Andrea Parrot, reckons that more than 20 percent of late adolescents outside of college are victims of rape. Drawing on Koss's findings, Parrot came to this conclusion by assuming that college women experience a lower rate of acquaintance rape than women of their age cohort in the general population.

Taken together, the most frequently cited estimates of acquaintance rape and the sexual molestation of children indicate that close to half of the women in the United States are sexually assaulted before age twenty-one. Other figures, however, tell a different story, which is seldom reported by the media.

Under the Uniform Crime Reporting Program, the FBI routinely gathers statistics on almost all major offenses reported to local law-enforcement agencies throughout the country. According to these data, the number of attempted and completed rapes disclosed between 1979 and 1988 rose from 76,390 to 92,490. It is true, of course, that many incidents of rape are not officially reported, and no one knows exactly how many have occurred. Estimates of unreported crime can, however, be gleaned from the National Crime Survey of the Bureau of Justice Statistics (BJS), which draws on a probability sample of 59,000 households. Findings from these household interviews generally disclose rates of rape 50 percent to 140 percent higher than those reported to the local authorities. Disturbing as these figures are, the problem that they reveal is still orders of magnitude smaller than the epidemic highlighted in the media accounts.

The figure below provides the FBI and BJS data; for purposes of comparability, the raw BJS data have been converted to the format of the FBI data, which show the number of rapes per 100,000 women. Measured by either survey, the incidence of rape climbed significantly between 1970 and 1980. Since 1980, however, officially reported rates have leveled off, and the rates derived from household surveys have declined substantially. As the data show, between 1980 and 1987 the rate confirmed by household respon-

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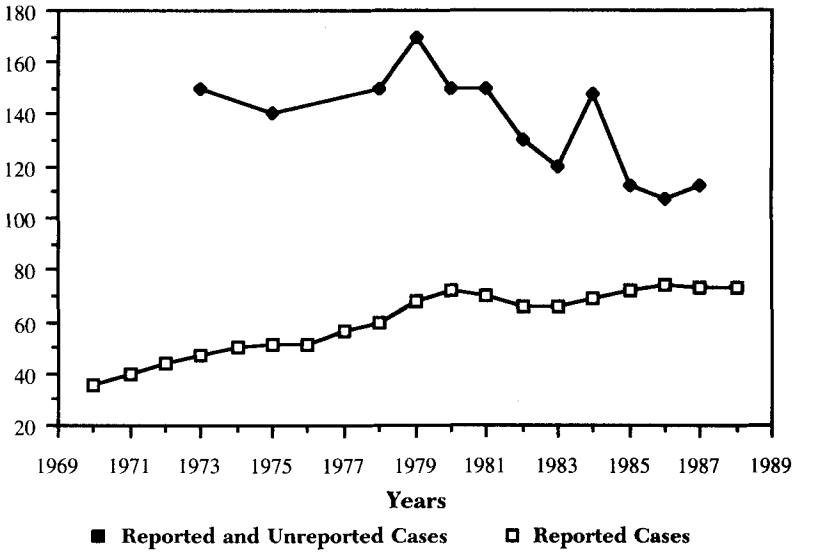
dents fell from 150 reported and unreported cases for every 100,000 women to 113.

Incidence of Rape and Attempted Rape (per hundred thousand women)[a]



[a]*Sources:* U.S. Bureau of the Census, *Statistical Abstract of the United States 1981* (Washington, DC: Government Printing Office, 1981), p. 173; *Statistical Abstract of the United States 1990*, pp. 173-74.

The situation conveyed by the figure is still, of course, deeply disturbing. Rape is a heinous offense, and the 141,000 cases reported and unreported in 1987 represent an enormous amount of human suffering. However, there is a staggering difference between a problem in which one of every thousand women is victimized and an "epidemic" of sexual assaults that harms one of every two before they reach their mid-twenties. What accounts for this discrepancy?

A matter of definition

The obvious answer is that it is just a matter of definition. And to some extent this is true. Part of the variance among these findings can be attributed to the distinction between incidence rates (the number of cases per year) and prevalence rates (the proportion of women who, at some point in their lives, will be victimized); different sampling procedures; and assorted methods of gathering

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data. But the most telling factor is the investigators' different working definitions of sexual molestation.

For example, Diana Russell claims that 54 percent of her respondents were victims of incestuous or extrafamilial sexual abuse before age eighteen. This prevalence rate is based on a broad definition of sexual abuse: children who merely receive "unwanted kisses and hugs" are classed as victims, as are others who have not been touched at all (e.g., children who encounter exhibitionists). A lower rate of 38 percent was registered with a narrower definition that involved "unwanted sexual experiences ranging from attempted petting to rape" by nonrelatives and "any kind of exploitive sexual contact or attempted contact" by relatives. The information used to determine whether sexual abuse occurred was based on responses to fourteen screening questions such as these:

- Did anyone ever try to or succeed in touching your breasts or genitals against your wishes before you turned fourteen?
- Did anyone ever feel you, grab you, or kiss you in a way that you felt was threatening?
- At any time in your life has an uncle, brother, father, grandfather, or female relative ever had any kind of sexual contact with you?

In addition to finding a 38- to 54-percent rate of sexual abuse during their childhood, Russell discovered that more than a third of those included in her sample had been victims of rape or attempted rape after reaching age sixteen.

In the *Ms.* survey on campus sexual assault, Mary Koss was guided by what she calls a strict legal definition of rape: acts that involve the penetration of a woman "against consent through the use of force or threat of bodily harm, or intentional incapacitation of the victim." To identify victims of rape by this definition, survey respondents were asked ten questions about their sexual experiences, a few of which follow:

Have you had sexual intercourse when you didn't want to, because you were overwhelmed by a man's continual arguments and pressure? Because a man gave you alcohol or drugs? Because a man threatened or used some degree of physical force to compel you?

The report that one out of three female Stanford students has experienced date rape derives from a survey in which respondents

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revealed that they had "full sexual activity when they did not want to."

The results of these surveys, however, are misleading; in their efforts to capture the full extent of sexual molestation, the studies cast a large, tightly-woven net that snares the minnows with the sharks. If unwanted hugs and kisses are equated with the sexual abuse of children, we have all been victims. Russell's more restrictive definition may come closer to what people think of as sexual abuse, but it is hard to judge when she includes conduct that ranges from attempted petting to any kind of exploitive sexual contact.

Unlike Russell's perception of sexual abuse, which encompasses all sorts of physical contact, Mary Koss's view of rape is limited to sexual behavior that involves penetration. Koss, however, takes a strict legal definition and gives it a loose empirical interpretation. For example, if a woman said that she had had sexual intercourse when she did not want to, because a man gave her alcohol or drugs, Koss would label her a victim of rape. Presumably this is a case of "intentional incapacitation of the victim." Still, circumstances matter; it makes a difference what the man's intention was, how much alcohol the woman had ingested, and whether and how she expressed her lack of consent. Fifty-five percent of the women identified by Koss as rape victims had been drinking or taking drugs just before the episode. Did the man order a beer or a bottle of wine during dinner? Did she select the brand and split the bill? Was she too intoxicated to reason with the man? Did she physically resist his advances or run away?

The behavioral referents for Koss's classification of attempted rape are equally ambiguous. Consider the following case. After having a drink, a young man and woman are sitting on a couch kissing in a tight embrace; she offers no objection, perhaps she even offers some encouragement. As he embraces her, with the thought of having intercourse in mind, the man touches the woman's genitals. She pushes his hand away and breaks out of the embrace. Although the man then stops and sheepishly apologizes, he has already committed a sexual act that involves alcohol, force, intent to penetrate, and lack of consent. Many would say that the young man misbehaved. As Koss would have it, this encounter qualifies as attempted rape.

Koss's empirical definitions of rape and attempted rape imply an understanding of sexual encounters that does not square with human attitudes and experiences. According to this view, a young

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woman who embraces a man who attracts her must know decisively whether or not she wants to have sexual intercourse at every given moment. Moreover, she must communicate these sentiments explicitly before any physical contact occurs. This perception does not allow for the modesty, emotional confusion, ambivalence, and vacillation that inexperienced young people may feel during the initial stages of sexual intimacy. (Remember that 41 percent of the women defined as victims of rape were virgins at the time of the incident.)

According to Koss, respondents were identified as victims of "sexual coercion" if they had engaged in sexual intercourse because they were "overwhelmed by a man's continual arguments and pressure." The conventional script of nagging and pleading—"Everyone does it," "If you really loved me, you'd do it," "We did it last night," "You will like it"—is transformed into a version of sexual assault.

Under these definitions of rape and sexual coercion, the kaleidoscope of intimate discourse—passion, emotional turmoil, entreaties, flirtation, provocation, demureness—must give way to cool-headed contractual sex: "Will you do it, yes or no? Please sign on the line below."

How do reasonable women view this matter? Most of the female students surveyed disagreed with the operational definition of rape in the *Ms.* study. Seventy-three percent of those whom the researcher defined as having been raped did not perceive of themselves as victims. Indeed, 42 percent of the women who were defined as having been raped had sex again with the men who had supposedly raped them. Among the college men surveyed, 84 percent of those identified as having committed rape disagreed with the researcher's interpretation of the incidents. Evidently, so did the women with whom they were involved, as 55 percent of these men had sex again with their putative victims.

There are several ways to interpret these reactions. Some would concur with Robin Warshaw's explanation that women who return to have sex with their attackers do so because they are confused and "fall back on typically self-blaming female explanations: I must have misunderstood him, I didn't make myself clear, I am wrong for feeling bad about this. He must really like me, because he asked me out again." Others would say that if reasonable people feel confusion rather than outrage, perhaps there is something to be confused about.

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It would be correct, then, to say that the vastly different estimates of the size of the problem are largely a matter of definition. But this explanation misses an essential point. What is at stake here is more than the semantic quibblings of social science.

A feminist prescription

A definition describes the essential character of a phenomenon and marks its boundaries. The definitions of sexual abuse and rape employed in the studies noted above extend the boundaries and transform the character of what is to be considered sexual assault. Most of the women in the *Ms.* survey did not regard their experience as rape—although according to Koss, they should have. Purporting to provide a strict definition of rape, her study actually issues a radical feminist prescription for the empowerment of women that is notably uneasy about physical intimacy between the sexes.

In her view, the slightest pressure constitutes use of force; all degrees of intoxication are the same; sweet talk and efforts at verbal persuasion are coercive; above all, the faintest demurral means no. The authorized script for male-female relationships precludes "Maybe," "I don't know," "If you would...," "As long as...." There is no place for qualification, uncertainty, and confusion, except perhaps when a woman says "yes." "Many feminists," according to Susan Estrich, "would argue that so long as women are powerless relative to men, viewing 'yes' as a sign of true consent is misguided." Estrich herself agrees that "yes" may often mean "no."

The feminist prescription redefines conventional morality so as to give women complete control of physical intimacy between the sexes. Advances by males, in almost any form, that do not receive clear and explicit consent are deemed coercive or assaultive. Passion, spontaneity, and the smile or nod that implies assent are all ruled out of intimate discourse, to be replaced by rational calculation and formal understanding. The awesome complexity of human interaction is reduced to "No means no" (even though "yes" may also mean "no").

But research that defines almost half of women under twenty-five as victims of sexual molestation is only part of the radical feminist effort to impose new norms governing intimacy between the sexes.

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Inoculation or indoctrination?

The movement to prevent sexual abuse was launched in 1971 at a "Speak-Out on Rape" conference sponsored by the New York Radical Feminists. Since then training programs to prevent sexual abuse have enrolled millions of women and children in thousands of schools throughout the country. In 1984, for example, California implemented a $10-million-a-year comprehensive program of classroom-based training to prevent sexual abuse, given to all children in the state four times during their school careers. These programs seek to provide "inoculation" against the "silent epidemic" of sexual abuse.

Since it is always best to inoculate early, programs start with three-year-olds. The Child Assault Prevention Program (CAPP), developed in the 1970s by Women Against Rape in Columbus, Ohio, is among the oldest and most widely used curricula in this area. (Over half of the programs in California schools were based on this model.) CAPP or other variants of this prevention curriculum aim to empower children by teaching them to be assertive. The main form of such instruction involves telling children to say "no" firmly and to yell in a loud voice if an adult tries to touch them in a way that is impermissible. Taking the idea of empowerment a bit further, the CAPP curriculum also teaches children, even preschoolers, to fight back—to kick, stomp on a foot, pinch, bite—if cornered by an assailant.

These programs also teach children how to interpret impermissible sexual behavior. Here the two basic approaches to training rely on children's intuition and social rules about being touched. While sometimes couched in different terms (e.g. good touch/bad touch, safe touch/unsafe touch, red light/green light), the intuitive approach instructs children that any physical contact that does not feel good is bad or inappropriate, and should be resisted and reported to adults. Examples of "bad" touches given in various curricula include everything from unwanted hugs and kisses to pats on the head, as well as intimate contact with a child's private parts. If a touch feels confusing, children are advised to listen to the little voice within, the one that says "uh-oh," which as it turns out is really a warning against danger. The message is that when children feel mixed up or confused by physical contact, they have received a bad touch. It is a lesson that conveys feminist efforts to resolve the question of ambivalence at an early age.

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But children's feelings cannot always be trusted to judge whether physical contact is bad or unsafe. Sometimes being patted or rubbed may feel good, even on private parts of the body. Thus many programs also transmit simple rules to discourage touching, regardless of how it feels. These rules forbid anyone—even a parent—to touch any part of the body covered by a bathing suit (with a halter for girls), except when the child is being bathed or examined by a doctor. Not only do these rules narrow the compass of physical relations in family life (try picking up a six-year-old girl without touching her chest), but they may also suggest that sexuality and physical intimacy are unwholesome. As David Finkelhor and Nancy Strapko have asked: "How many children exposed to these programs get the idea that sexual touching is always or almost always bad or dangerous or exploitive?"

Some would argue, of course, that that idea is worth planting in young minds. If half of the nation's women are sexually assaulted before reaching their mid-twenties, then intimate relations between the sexes are indeed a perilous affair to be approached defensively. This view is clearly reflected in the typical guidelines for preventing sexual molestation that experts on date rape recommend to adolescents and college students. These guidelines advise a woman to tell her date the precise limits of sexual activity in which she wishes to engage; to be assertive; to stay sober; to investigate her date and his plans for the evening; to remain in control by paying her own way and taking her own car or arranging to have a friend available to pick her up if necessary; and to be prepared to protect herself by taking a course in self-defense. While not explicitly suggested, the thought may also be conveyed that a sure way to prevent date rape is not to date men at all.

Beyond consciousness raising

The estimates of sexual assault calculated by feminist researchers are advocacy numbers, figures that embody less an effort at scientific understanding than an attempt to persuade the public that a problem is vastly larger than commonly recognized. Advocacy numbers are derived not through outright deceit but through a more subtle process of distortion. Under the veil of social science, rigorous research methods are employed to measure a problem defined so broadly that it forms a vessel into which almost any human difficulty can be poured. Some argue that efforts of this sort can serve a useful purpose, because social problems are

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sometimes larger than commonly recognized. And since the media gravitate toward alarming numbers, a bit of definitional stretching may be necessary to bring the problem into public view. Among those who practice social advocacy, this is known as "consciousness raising" and is deemed a respectable function of advocacy numbers.

One way of looking at the tremendous estimates of sexual assault, then, is to see them as part of the struggle to influence social policy for a good cause. From this perspective feminist advocates may claim a measure of success, when we consider the proliferation over the last decade of publicly subsidized rape crisis centers and training programs to prevent sexual abuse, along with the growing support industry of consultants, books, videos, and other educational paraphernalia. There is some indication, though, that public support for these efforts may be on the wane. In 1990 Governor Deukmejian eliminated all of the funding for California's extensive program of training to prevent sexual abuse. These funds were cut in the wake of a budget deficit and a report from the legislative analyst's office that found both the effects and appropriateness of the prevention program—particularly when directed at young children—highly questionable.

In one respect the use of advocacy numbers to measure sexual assault is unique. Most consciousness raising requires that the public be exposed to the problems of other people. The people who have the problem—whether it is homelessness, mental illness, poverty, or AIDS—are well aware of it. According to the feminist researchers who promulgate advocacy numbers, sexual assault raises a different sort of issue: it not only afflicts a much higher proportion of people than other social problems (perhaps half of women under twenty-five and many more afterward), but most of the victims are also unaware of their affliction or unwilling and unable to acknowledge it. In this case the function of advocacy numbers is to alter consciousness more than raise it, to change social perceptions of what constitutes common experience in heterosexual relations. The difference between a sexual-assault rate of 25 or 50 percent and one of 0.1 percent is more than a matter of degree. It is the difference between the view that male-female relations are normally enjoyable for most people and the view that they are inherently antagonistic and dangerous. To argue for the higher rate is to try to shift our understanding of the battle of the sexes; the model suggested by Spencer Tracy and Katherine

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Hepburn is to be replaced by one in which Conan the Barbarian violently thrashes his cavemate.

While the problem of sexual assault may well be greater than is suggested by the National Crime Survey figures, it has certainly not reached the epidemic proportions indicated by the advocacy numbers. Radical feminists who promote advocacy numbers aim not so much to solve the problem of sexual assault as to change social perceptions of its basic nature. In pursuit of this objective, they find it necessary to instill belief in an epidemic that would justify the feminist-prescribed social inoculation of every woman and child in society.

To argue that the advocacy numbers are implausible is not to deny the terrible gravity of sexual assault; after all, deplorable things that seldom occur are still deplorable. And the case against the advocacy numbers should be made, because their promulgation trivializes ruthless cases of abuse and feeds off the suffering of real victims. Yet the burgeoning rates of sexual assault advanced by radical feminists have been almost immune to critical examination, especially by other women.

It is tempting to suggest that the silence of the majority explains the relative absence of public debate over the size of this problem: the few women who are disaffected monopolize the discussion, while the many others with no ax to grind go quietly about their business. This may account, in part, for the ready acceptance of the advocacy numbers. But I think that a more complete explanation must take into account women's experiences over the last few decades. During that time, an unprecedented number of women have become heads of single-parent families and have begun to receive the minimal pay of entry-level workers. Not surprisingly, many feel socially and economically oppressed. Advocacy numbers on sexual assault may resonate with their feelings of being, not literally raped, but figuratively "screwed over" by men. If this is the case, it will require more than objective analysis to dispel the phantom epidemic of sexual assault.

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WIC: a food program that fails

GEORGE G. GRAHAM

FEW GOVERNMENT programs have ever been as popular, not to say sacrosanct, as the Special Supplemental Food Program for Women, Infants and Children (WIC), on which the federal government currently spends $2.5 billion annually—a sum that does not include the substantial additional amounts spent by the states to administer and monitor it. WIC provides women with milk, cheese, eggs, cereal, juice, and legumes (or peanut butter) in amounts calculated to provide all of their protein and over 50 percent of their calorie requirements. Infants receive formula, cereal, and juice to satisfy their nutritional needs. Children aged one to four receive the same foods as their mothers, in amounts that should fulfill practically all of their nutritional requirements. The program now serves nearly one-third of the four million American babies born each year, and half of the more than eight million women, infants, and children who are eligible. Eligibility is restricted to women who are either pregnant or have delivered within the past year, and to their young children; participants must be "at nutritional risk" (a capriciously defined

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condition), and their family incomes (excluding in-kind benefits) must fall below 185 percent of the official nonfarm poverty line.

WIC made news last year, when a front-page story in the *New York Times* revealed that rising food prices were forcing cuts in the size of individual WIC allotments. The *Baltimore Sun* added that 240,000 women and children would be cut from the rolls of recipients. Reaction to these reports was swift and predictable. A proposal to triple the amounts that states could borrow against the following year's WIC allocation—thus allowing them to reinstate 250,000 women and children—passed the House of Representatives by a voice vote. The Senate quickly followed suit, and President Bush signed the measure into law.

The House's action reflected the widespread conviction that WIC is simply above reproach. A *New York Times* editorial, for example, hailed the program; it stressed the obvious benefits of and large savings resulting from "more prenatal care for those pregnant women reluctant to seek it, increased length of pregnancies, higher birth weights, lower mortalities, larger newborn babies' heads [which the editorial writers presumably associate with higher intelligence], and averted social and medical ills." A joint letter from nutritionist Jean Mayer (president of Tufts University) and J. Larry Brown of the Harvard School of Public Health (as well as president of Oxfam America) shared the editorial's viewpoint; it emphasized WIC's benefits to society, arguing that "underfunding WIC is morally revolting and also economically stupid."

The pro-WIC consensus is also reflected in the views of Senators Ted Kennedy (D-MA) and Alan Simpson (R-WY), who recently outdid one another in supporting the program. During one of their regularly scheduled radio debates, they differed only in the level of expanded funding that each was prepared to recommend. And on the local level, support for WIC remains strong in Maryland, even though the program's bureaucracy has had to mount extensive publicity campaigns to recruit enrollees, so as to avoid the embarrassment of unspent funds. In the throes of a fiscal crisis, the state government has recently announced cuts in its payments to hospitals for Medicaid patients, the suspension of a program that provides prescription drugs to about 14,000 poor people, and the elimination of home health-care services for over 3,000 disabled people; it has not, however, even considered cutting its substantial WIC expenditures.

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On one level, it is easy to understand WIC's popularity. Who would oppose a program designed to help women, infants, and children—specifically a program designed to aid the poor by curbing malnutrition and reducing infant mortality? Programs must not, however, be assessed only in terms of the nobility of their ends; we must also consider the suitability of their means. Hard as it may be to believe, when WIC is judged by this standard, it is an unmitigated disaster. Originally intended to curb a virtually nonexistent nutritional disorder (malnutrition), it has exacerbated what is now a far more troublesome one (obesity). Today WIC is chiefly lauded as an attempt to reduce our low-birth-weight (LBW) and infant-mortality rates (IMR). But both rates continue to be scandalously high, which suggests that WIC is altogether ineffective as a remedy. Its failure should have been expected, because LBW in America is primarily a behavioral problem, not a nutritional one; for this reason, educational programs targeted directly at the pregnant women who are most at risk would be far more effective in lowering the resultant infant mortality.

History

The case for WIC was questionable from the very outset. The program began in response to the barrage of publicity that followed the 1968 CBS spectacular "Hunger in America" and the Field Foundation's report "Hunger USA." The Field Foundation had sent legislators, scientists, and other concerned citizens to the rural South, where they saw, for the first time, the primitive conditions under which many people in that region lived. They were right to be shocked, but their report was an overreaction, inasmuch as it attributed all manner of social ills to malnutrition. The case for government action against hunger was often made disingenuously: a tiny prematurely born infant in an incubator was passed off on television as a victim of undernutrition; morbidly obese women were coached to claim on camera that their diets had included too little of the right types of foods, and that they had ingested too many "empty" calories—like those found in wheat, which happens to be the world's most important staple food and source of dietary protein.

In short order researchers purported to discover hunger throughout the nation, and in 1969 a White House conference chaired by Jean Mayer was convened by President Nixon. Existing food programs were expanded and new ones proposed. An

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emergency "Ten-State Survey" was initiated, which pointed to an appalling incidence of obesity among the very groups of poor people who were supposedly not taking in enough calories! (This conclusion was subsequently confirmed by the two national Health and Nutrition Examination Surveys, known as HANES I and II.) By the time these results were known, however, the machinery to combat the imaginary epidemic had been set in motion.

The shorter statures of children of Hispanic and Asian immigrants were glibly attributed by "hunger" activists to chronic malnutrition; possible genetic differences were disregarded, as were the increases in stature to be expected in succeeding generations. Low weight-for-height ratios in children, an indicator of possible current undernutrition, were actually less common in the Centers for Disease Control's Pediatric Nutrition Surveillance than in the National Center for Health Statistics reference data. Excess weight-for-height ratios, conversely, were more common, particularly among the poor. (Many researchers—notably William Dietz of the Tufts University School of Medicine—have found that there is a strong correlation in America between low socioeconomic status and high rates of obesity.) No cases of clinical vitamin A deficiency were found; nevertheless, the claim was made—before the Senate and on television—that this deficiency was more common in the U.S. than in Pakistan, where thousands were regularly blinded by it.

Research in the underdeveloped world had suggested that it was harder for the brain than for the body to reach normal size in children recovering from the ravages of severe malnutrition in infancy; it was thought that abnormally small brain size might hinder subsequent intellectual development. Impressed in part by this speculation (which has since been disproven), Congress created WIC in 1972, providing it with a $20-million, two-year pilot authorization. It also ordered an evaluation after only six months, to measure WIC's effects on the birth weights, growth, and intelligence of its beneficiaries. Congress hoped that the program would rapidly counteract the environmental deprivation and persistent discrimination that resulted in the poor school performance, the delinquency, and the welfare dependency of what is now called the underclass. Dispensing some of our surplus food through WIC seemed to be a simple and painless way of solving our most pressing social problems.

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Inconclusive evaluations

The evaluations of WIC were necessarily questionable; it is difficult if not impossible to assess any large-scale social program if participants cannot be assigned at random to receive or not receive the benefits in question. Although none of the major evaluations of WIC passed the peer review of critical scientific journals, they were used to justify the program's expansion. Their authors recognized that WIC did not confer measurable health benefits on its one- to four-year-old recipients, but they believed that the weight of participating infants—particularly normal or overweight ones—and the hemoglobin level of their blood did increase. What is more important, pregnant women who participated seemed to have longer pregnancies, to deliver slightly heavier babies, and to give birth to fewer LBW babies (those weighing five and one-half pounds or less at birth). An evaluation conducted by Harvard and Tufts apparently confirmed WIC's positive effects on length of gestation and birth weight; it calculated that the program saved three dollars for every dollar spent on it, because a decrease in the LBW rate would lower the future long-term medical costs of coping with the damage done to surviving LBW babies.

The Department of Agriculture, which administers WIC, arranged for a large multifaceted evaluation in 1979. A study of newly enrolled pregnant women revealed that the circumference of the heads of their newborn infants was greater on average than that of infants in a comparison group, even though there was no corresponding difference in body lengths or weights. The greater circumference was probably a chance occurrence, as the only medically plausible explanation for such a finding is hydrocephalus, or water on the brain. The evaluation also seemed to point to increases in birth weights and gestation periods that correlated with the spread of WIC in participating counties. Most of the gains, however, occurred in 1972 and 1973—before WIC existed in the states that were surveyed.

The data for these evaluations were collected from small to moderately large samples of WIC participants and nonparticipants living in the same general areas. No further evaluations of any magnitude have been made since then. Since the program has grown dramatically during its nearly twenty years of existence, its positive effects should already be obvious.

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WIC's nutritional impact

An examination of the evidence shows that WIC has been highly ineffective. It has failed because the evils that it tries to address stem from behavioral rather than nutritional causes. WIC is altogether unsuited to address the problems of disruptive behavior or failure in school, dropping out of school, delinquency, welfare dependency, substance abuse, promiscuity, illegitimacy, extreme prematurity, fetal alcohol syndrome, "crack" babies, and infantile AIDS. None of these social cancers has a basis in nutritional deficiency. Nutritional programs like WIC have "succeeded" only in contributing to the alarming prevalence of morbid obesity among the poor, especially among Native Americans (both in and out of reservations).

Primary undernutrition (resulting from eating too little of the right sorts of foods) among Americans almost always results from social pathologies that WIC does not even try to address. Substance abuse (particularly of alcohol, cocaine, and heroin) accounts for much undernutrition—either directly in adults or by causing the neglect and abuse of children. Much undernutrition is also found among homeless, mentally ill adults. On humanitarian grounds we are right to respond to these problems by providing food and shelter; but the provision of food (prenatally, in infancy, or in childhood) can do nothing to prevent them.

WIC has been hailed for providing the ignorant with needed "nutritional education." But dietitians should be troubled by WIC's generous provision to the poor of milk, cheese, and eggs—excessive consumption of which is fearfully avoided by today's upper classes. Future generations could have good reason to accuse us of "dumping" these unwanted surplus foods on the underprivileged, and thereby contributing to the high incidence among them of obesity, diabetes, and degenerative vascular diseases. Excess body fat has also recently been implicated as a cause of various cancers.

WIC was also expected to promote breast feeding among the poor; it is thought that breast feeding strengthens "bonding" between mothers and infants, and that it prevents allergies and infections. Breast feeding did in fact increase among all classes in the 1970s, and among the middle and upper classes in the 1980s. Breast feeding among the poor decreased in the latter decade, though, in part because of WIC's own policies: its provision of free

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infant formula to its clients increased nationwide consumption by more than 50 percent.

Birth weights and infant mortality

All of WIC's supporters today justify it by claiming that supplementing the diet of poor pregnant women decreases the number of LBW and VLBW (very low birth weight, three and one-quarter pounds or less) babies by decreasing premature births. In consequence, the program is thought to reduce infant mortality and the social and economic costs of caring for brain-damaged survivors. Unfortunately, these claims are not substantiated by the pertinent statistics compiled by the National Center for Health Statistics, which are readily available in the publications of the Children's Defense Fund.

Between 1950 and 1969 the percentage of LBW infants in the U.S. increased from 7.5 to 8.1 percent of all live births. The percentages for white births changed little during this period (falling from 7.1 to 7.0 percent), but those for non-whites rose steadily (from 10.2 to 13.5 percent). In 1969, the first year in which figures for blacks were tabulated separately, the black LBW rate was 14.1 percent—double the white rate. By 1979 the national rate had declined to 6.9 percent, the white rate to 5.8 percent, the non-white rate to 11.6 percent, and the black rate to 12.6 percent of births. (The legalization of abortion is thought to have played a major role in these declines, since a significant proportion of LBW babies are unwanted and/or born out of wedlock.) In 1984 the national rate reached a low of 6.7 percent, but by 1986 it was back up to 6.8 percent, and in 1988 it reached 6.9 percent of births. The white rate remained nearly constant at 5.7 percent in this period (actually falling to 5.6 percent in 1988); the rise in the overall figures was accounted for by an increase in the black rate, to 12.7 percent in 1987 and 13.0 percent in 1988. The LBW rates of other non-white groups—even those whose poverty exceeds blacks'—are similar to or even lower than those of whites. Puerto Rican rates were halfway between those of whites and blacks in 1982, but now they are much closer to white rates.

Premature births account for 70 percent of LBW births in the United States, and undernutrition plays a very minor role—if any at all—in causing premature labor and birth. Relatively few of the non-premature LBW births (those of so-called small-for-date babies) result from voluntary or involuntary maternal undernutri-

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tion; improved diets (either before or after conception) can help matters only in these rare cases. Since very few American LBW births have nutritional causes, obviously the problems posed by LBW babies here cannot have nutritional solutions.

In these respects America differs sharply from the rest of the world. In most developed countries LBW births (mostly due to prematurity) are far less common. In nearly all developing countries premature birth is also less common than it is here, and the incidence of LBW births, often lower than ours, does stem from maternal undernutrition. Peru is a miserably poor country, but LBW is no more frequent there than it is here: premature birth is less common there, and this compensates for the greater incidence of small-for-date births resulting from maternal undernutrition. LBW births are much more common in Bangladesh, Guatemala, and parts of sub-Saharan Africa than in the U.S., because of severe maternal undernutrition; premature births, however, are relatively infrequent in these countries.

Nor do our unacceptably high rates of LBW births reflect an influx of very poor immigrants. The rate of LBW births in the U.S. for black mothers born outside the United States is 8.8 percent, much lower than the 13.3-percent rate for native-born black mothers. Although the discrepancy is less striking, LBW births in the U.S. are also more common among Mexican-American women born here than among those born abroad. These data suggest that genetic factors play little or no role in explaining the different rates of LBW births among different groups. Environmental and behavioral differences are far more relevant, particularly in accounting for VLBW births. Studies of whites, blacks, and Puerto Ricans all suggest that VLBW births correlate strongly with smoking, drug abuse (particularly involving crack and other forms of cocaine), infections—often resulting from promiscuous behavior—of the genital tract and of the membranes surrounding the unborn baby, previous abortions, and stress.

Supplementing maternal diets can do little to prevent American LBW births, and no more to assist LBW babies after birth. Hence it is not surprising that WIC has failed to produce the savings predicted for it. The total cost of providing special care through the first thirty-five years of life to LBW and VLBW babies born in one year is now estimated to run between $3.5 and $4.1 billion. The cost of care for the newborn alone in these categories has more than doubled in the past five years. It is true that the incidence of

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moderate LBW (above three and one-quarter pounds) has decreased modestly among all racial groups in the past decade; some of this decrease might conceivably be credited to WIC. VLBW, however, is much more devastating and almost invariably due to premature birth; its incidence, tragically, has risen during the last ten years, going from 1.1 to 1.2 percent of white births and from 2.3 to 2.7 percent of black births. Remarkable but very expensive advances in intensive care for newborn babies have significantly improved survival rates and the quality of life for survivors in both weight categories, but the net effect has nevertheless been a steady increase in the number of brain-damaged survivors. All authorities agree that few further advances in care for the newborn are likely; as a result, we can most effectively improve infant and child health by doing more to prevent premature births.

Time recently lamented the fact that seventeen other countries had lower IMRs than the United States. The true state of affairs, unfortunately, is even worse than this. In 1989 twenty-one countries had lower rates. By now we may have fallen behind one or more additional countries, if their IMRs continue to fall more rapidly than ours. Our IMR has been declining steadily but only slowly; our elevated LBW and VLBW rates, which account for 60 percent of our infant mortality, keep pushing it back up. Our IMR has only recently fallen below ten per thousand live births. We are more successful than any other country in keeping LBW and VLBW babies alive, but because many such babies are born here, our IMR is still unconscionably high. Jamaica is a desperately poor country, almost all of whose people are black; yet its 1988 IMR of 17/1000 is much lower than the District of Columbia's (about 23/1000 in 1988)—even though two-thirds of eligible Washingtonians participate in WIC, which gives the District the nation's fifth-highest participation rate.

Conclusions

These depressing statistics show that WIC has failed drastically in achieving its aims. Fortunately, they also suggest that different sorts of programs promise to be far more effective. The following conclusions seem reasonable:

1. Food supplementation has at best a limited role in preventing LBW births; it is effective only where LBWs most closely approach normal birth weights. In these cases, however, morbidi-

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ties, mortalities, and costs are also only minimally higher than they are for normal-weight babies. A moderately efficient but more widely available program of prenatal care would be far less expensive than WIC; it could far more effectively identify and then provide additional food and support to the relatively few undernourished pregnant women and young girls.

2. Substandard infant growth is not rare in the U.S., but it almost always results from disease or neglect. A proper surveillance system would be far more successful (again at far less cost) in identifying those at risk. Hygienic intervention can be highly effective. For example, iron-deficiency anemia often used to result from infants losing blood, after they had inappropriately been fed pasteurized cow's milk at too early an age. It is far less common now, because infants (whether WIC participants or not) now are more commonly nurtured with breast milk or formula.

3. WIC has failed to make even a dent in the problems of LBW and IMR. As we have seen, there is little reason to believe that altered diets will prevent premature labor, LBW, and their devastating consequences. There is even less reason to believe that they will improve the performance of poor children in woefully substandard schools. We would be far wiser to adopt realistic medical approaches that aim to prevent premature birth. Programs of this sort identify correctable complications and the likelihood of premature labor, and when necessary refer pregnant women to medical centers that can address the dangers. Such programs have been successful both in France and later in San Francisco.

4. In some places prenatal services may well be deficient, but even extensive prenatal programs cannot reduce the incidence of VLBW if expectant mothers fail to take advantage of them. In the District of Columbia, for example, superhuman efforts to seek out and help high-risk pregnant girls have met with discouragingly meager results. High-risk pregnancies, which are likely to terminate in premature labor and VLBW babies, are hard to prevent; we must hope that educational efforts such as Head Start, which can moderate the underlying social pathologies, will be increasingly effective in future. In any event, education rather than nutrition is clearly the key to solving the problems that WIC cannot address. Somehow we must develop educational programs to liberate children from the devastating climate of violence, drugs, and sex that now too often leads them to replicate the depressing fates of their parents.

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Better living through litigation?

WALTER OLSON

STUCK IN rush-hour traffic? Kept awake by teenagers drag-racing down Main Street? Fender dented by a careless driver at the mall? In *Verdicts on Lawyers*, a 1976 volume edited by Ralph Nader and Mark Green, an ultimate if drastic answer to these familiar car-related woes was proposed: file a lawsuit—not against your fellow drivers, but against Detroit (and, these days, Yokohama) for not designing automobiles that would prevent these ills.

The contributors who made this proposal, Beverly C. Moore, Jr., described as "a public interest lawyer in Washington, D.C.," and Fred Harris, former Democratic senator from Oklahoma and presidential-candidate-to-be, were apparently quite serious when they advanced this startling thesis. The way to make society safer, cleaner, and quieter, they argued, was to make business enterprise legally responsible for the full measure of risk, grime, and distraction entailed by its output:

> If the automobile industry were saddled with an annual damage liability of perhaps $100 billion for accidents, air pollution, noise, congestion, and highway and traffic-control costs, and were forced to raise its

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prices by that amount, it would have no choice but to redesign its vehicles to minimize these costs and their associated liabilities.

Sure, car prices might jump—several-fold, at least, though Moore and Harris prudently refrained from offering any estimates. But the cars that were produced, however few in number, would be as environmentally perfect as corporate ingenuity could make them. The real beauty of the idea, in fact, would lie in its harnessing of market mechanisms to solve otherwise intractable social problems. After all, "if the profit motive helps reduce the costs of the beneficial products of our economy, it can be enlisted to reduce the harmful byproducts." What could be more sensible?

Bizarre as it may seem, Moore and Harris's idea should not be ignored. It serves as a specimen, admittedly extreme, of a form of thinking popular on the efficiency-oriented "right" as well as the anti-corporate "left." Such thinking is routinely invoked to justify not only lawsuits against manufacturers but lawsuits of almost every other kind as well.

It might be called the invisible-fist theory. In Adam Smith's famous account, self-seeking butchers and bakers are led as if by an invisible hand to further the general welfare; private striving leads to public benefit. The modern counterpart in legal commentary holds that private *quarreling* leads to public benefit. The more fights you get into, the more scrutiny the courts will apply to the conduct of others, and the better all your potential opponents and others like them will behave in expectation of this scrutiny. In short, the more suits filed, the better off the world will be.

The attractions of deterrence

Moore and Harris concisely express the theory's major premise when they write that the main purpose of a system of civil litigation is "deterrence—i.e., discouraging the injurious conduct that gives rise to litigation." By imposing liability on people or institutions that could have prevented harm, society gives them "a profit incentive to reduce the magnitude of the harms they cause." A wide range of legal commentators today might agree. In his concurrence in the 1944 case *Escola* v. *Coca-Coca Bottling*, which foreshadowed the modern era of product-liability law, California Justice Roger Traynor adopted a deterrence rationale for tagging manufacturers with very wide-ranging liability:

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> Even if there is no negligence ... public policy demands that responsibility be fixed wherever it will most effectively reduce the hazards to life and health inherent in defective products that reach the market.

Other commentators, borrowing economic terminology, specify that the legal system's role is to ferret out and correct negative "externalities"—harms that people or institutions inflict on others without agreement or consent. The favorite Economics 101 example is the factory whose smoke befouls the windowsills and washday laundry-lines of its neighbors. Werner Z. Hirsch, in his 1988 *Law and Economics: An Introductory Analysis*, justifies the courts' enforcement of property and contract law as their way of "playing the role of externality adjusters."

In reality, many if not most lawsuits arise from situations quite different from the one-sided infliction of damage exemplified by the smokestack/neighbor case. The proper locus of control over the harm is often less obvious. If someone buys household lye and then inadvertently hurts himself with it, for example, it is far from clear that he was harmed, without agreeing or consenting, by the manufacturer. Arguably the real externality arises only afterward, in the opposite direction—when the buyer uses the courts to recover money from the lye maker. But those who are fond of the externality model can stretch it to cover such cases by assuming that people would never voluntarily buy a product or enter a commercial relationship that they knew would harm them; when the mishap occurs, the argument goes, they are victims of externalities just as surely as if they had been assaulted in the night.

Whether couched in the "hot" language of wrongdoing or the "cool" language of social cost, the deterrence premise is offered to justify virtually every kind of lawsuit in American courts today. The victim mugged in a parking lot or dormitory sues the supermarket or university for "negligent security"—not, ostensibly, to make a fast buck, but to ensure that such safety lapses never happen again. The bartender or private party-giver who lets a guest drive away tipsy gets sued to encourage other hosts and servers—though not other guests, of course—to be more careful in the future. Tobacco liability, it is said, will drive up the price of a pack of cigarettes to reflect the full harm that they do. A spokesman for the Center to Prevent Handgun Violence calls for making gun manufacturers liable to shooting victims so that "those who profit

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from dealing in these death machines ... pay for their inevitable social cost."

Hardly anyone makes it clear, however, exactly where the boundaries to this theory lie—if anywhere. That is what makes the *Verdicts on Lawyers* article so special. Moore and Harris had a list. On it are twenty-four broad categories of ills to which human flesh is heir, ranging from alcohol-induced cirrhosis of the liver to the tendency of major home appliances to go on the fritz. Corresponding to them are broad categories of business and professional defendants, whom Moore and Harris would require to fork over cash on the barrelhead, through class-action lawsuits, in compensation.

The usual suspects—tobacco companies, distillers, polluting industries—are, of course, in evidence. Then things start to get more interesting. Moore and Harris would make the producers of sugar- and fat-laden foods legally responsible for a wide range of maladies, from tooth decay to adult-onset diabetes. Automakers, as we have seen, would be tagged with the cost of every highway collision. The makers of ordinary household products involved in accidents, from beds to bicycles, would share a similarly expensive fate.

What about mishaps that arise from user carelessness or deliberate misuse? Or the inevitable side effects of, say, valuable prescription drugs? No reason for business to be let off the hook in either case, said Moore and Harris. If drug makers were made fully liable for overdoses and side effects, for example, "it can be safely predicted that the industry would develop effective mechanisms to ensure that many or most such cases are in fact avoided. In response to similar potential damage liabilities, food corporations would reduce the fat, sugar, salt, and cholesterol content of their products."

They would also add fiber to their products; Moore and Harris declared that colon trouble, appendicitis, and other illnesses should be chargeable to food manufacturers who do not put enough indigestible matter in their wares. Here we encounter some especially knotty practical problems regarding which defendants should pay for what. It happens that fiber can be added to any food or for that matter any beverage, from champagne to carrot juice. Will the makers of fried pork rinds pay more or less than the makers of after-dinner mints? Can chewing-gum makers reduce their liability

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by pointing out that their product is sometimes inadvertently swallowed?

Whatever might happen to every other industry in the squabbling over these issues, one would be sure to thrive: the litigation industry. By even a conservative tally, paying for the items on the list would have led to the annual redistribution of well over a trillion dollars at the time; the figure would be much higher in today's depreciated dollars. The billable hours for the legal profession would also have mounted fast; so would the contingency fees, which the authors enthusiastically specified for the plaintiffs' side, and which typically run about one-third of the amount recovered. "Of course," they conceded in a footnote, "it might be advisable to phase in these new liabilities over a reasonable period of time."

Nonetheless, Moore and Harris declared the overall economic logic of universal enterprise liability to be "compelling." They were sorry to report, however, that the American legal system was slow to adopt it. Had they written today, they would have less cause for sorrow.

Learning to love litigation

We now have begun to conceive of lawsuits primarily as vessels for "deterrence," so that it is hard not to focus on their brighter side. Lawsuits are seen as an opportunity for policy making.

This is a significant departure from the past. Our legal tradition used to view lawsuits as an evil, at best a necessary evil; they might be unavoidable from time to time, but they were to be discouraged except as a last resort. Litigiousness was a distinctive vice, a form of bullying.

The law accordingly used to maintain a series of barriers that caused people to think twice before bringing anything short of a strong and definite grievance to court. Ethical controls on the legal profession discouraged lawyers from "stirring up" litigation. Procedural rules assigned many of the inevitable costs of litigation to those who wanted to initiate or prolong it, rather than to its targets alone. Evidence rules tended to discourage doubtful, speculative claims built on factual guesswork. Finally, the rules of substantive law were written where possible to sidestep the sort of open-ended, highly subjective inquiries—deciding which custodial arrangements would serve the "best interests" of a child, or when a worker was being dismissed for "good cause"—that generate large numbers of potential disputes.

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Once litigation was reconceived as a productive, socially beneficial activity, these rules ceased to make much sense. If a product is wholesome and desirable, how better to get it churned out in quantity than by freeing its producers from archaic restrictions? So American legal reformers set about to deregulate the practice of suing people.

Consider, for example, the rules against advertising and solicitation by lawyers. It had formerly been thought that lawyers should sit back passively and wait for clients to appear, lest they wittingly or unwittingly initiate needless contention and strife. Although "extensive advertising would doubtless increase litigation," declared the legal ethicist Henry Drinker in 1953, "this has always been considered as against public policy." On the whole, spontaneous grievances were likelier to be more substantive than grievances elicited by outside suggestion and promotion.

Then, in 1977, the U.S. Supreme Court decided in the landmark case of *Bates* v. *State Bar of Arizona* that lawyers have a constitutional right to solicit new business through advertising and other methods. Writing on behalf of a five-to-four majority, Justice Harry Blackmun deplored the "underutilization" of lawyers' services and said that advertising might "offer great benefits" in changing this state of affairs. Lest anyone imagine that by this he was referring only to, say, lawyers' advisory and negotiating services, he pointedly observed that advertising "might increase the use of the judicial machinery." He dismissed—in a footnote no less—the idea that a lawsuit could "somehow [be] viewed as an evil in itself." Justice Byron White's majority opinion in a related case eight years later struck the same note: "We cannot endorse the proposition that a lawsuit, as such, is an evil."

Thus the official wisdom swung far away from disapproving lawsuits. Citizens were to be encouraged to seek full vindication of their legally defined set of interests, and the first step was for them to be fully educated as to what those interests were. Parents of children with birth defects were soon being approached by attorneys who urged them to sue doctors and hospitals; crime victims were contacted with the happy news of their right to sue businesses for "negligent security." "The greatest barrier to courtroom justice," as Moore and Harris complained in their article, "is the marketplace reality that most victims are not even aware that they have been injured." As early as 1975 one of the most widely quoted of

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the new legal ethicists, Monroe Freedman, was writing of a "professional responsibility to chase ambulances."

The trend encouraging litigation was broad in scope. Civil procedure was revamped to make it easier to file a suit and harder to get one dismissed. It also became easier to use compulsory process to pry into an opponent's internal affairs before (or instead of) trial, to shop around for favorable courts in which to file suits, to gain the admission of doubtful expert testimony in order to keep a factually dubious case alive, and so forth down the line. In each case the effect was to shift burdens from those wishing to tie up others in court to those wishing to stay out.

Meanwhile, the rewards for suing and penalties for getting successfully sued—in the form of damages—were being raised dramatically. More chances were created for plaintiffs to recover triple or punitive damages, which were said to perfect the balance of incentives by making up for the times a particular defendant (or another just like him) got off without being sued. Contingency fees, formerly held in suspicion as encouraging lawyers to press claims with excessive zeal, were welcomed into new areas of courtroom work; what could "overzealous" mean, anyway, when every new punch thrown did the world a favor?

Class actions, Moore and Harris's preferred vehicle for suits against businesses, were likewise helped along by various changes, including a 1974 Supreme Court decision that did away with a requirement that the organizing lawyer show a significant chance of winning on the merits of his case. In many of these suits lawyers emerged as the real players, with clients reduced to figurehead roles. Soon "private attorney general" and "citizen suit" statutes began to authorize lawyers to wage suits purely and openly on their own behalf, for ideology, profit, or both. The invisible-fist theorists found this a welcome streamlining of the deterrence process. The point, after all, was not so much to give pleasure to any particular client as to give pain to the defendant.

The accepted ethic and spirit of litigation also began to change; ambiguity, inhibition, and mixed feelings were replaced by enthusiasm. Writers on legal ethics spent less time worrying about the dangers of harassing opponents and more time stressing lawyers' obligation to push their clients' rights to the bitter end with red-in-tooth-and-claw advocacy. If litigation was good for society, there was no need for bad conscience about litigating too aggressively.

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What has emerged quite predictably from all of this is an industry devoted to identifying chances to sue and maximizing profits from the resulting suits. The competitive pressure of this industry tends to weed out softness, and to bring claims into the hands of the lawyers who are most inclined to press them to the hilt without remorse. Collectively, the industry has cyclical ups and downs like any other, but over the long run it careens toward maximum output.

Mote-and-beam department

A great many problems and difficulties have emerged in the application of the invisible-fist theory, but one is notable for its irony. The invisible-fist theorists, like Mrs. Jellyby in *Bleak House*, burn with an unquenchable desire to seek out and smite social evils even to the edges of the known world. And like Dickens's distracted matriarch, they overlook signs that the feared evils are cropping up in their very own household.

Litigation is full of externalities. Sometimes it seems to consist of little else. When people file lawsuits or resist valid suits, they dump enormous costs on their opponents. The financial costs of response, often thoroughly ruinous, are just the beginning. The suspense and uncertainty of litigation are destructive in themselves, as litigants learn when they apply for loans, invite partners into their businesses, or are forced to put their homes on the market at distress prices.

Lawsuits tend to be miserable experiences on a personal level as well, setting people against each other in bitter acrimony. Privacy is sacrificed as parties must answer probing questions under oath; especially at the pretrial stage, the questions are commonly as unpleasant as possible. Time, energy, and equanimity are all thrown on the bonfire. Assaults on reputation that would themselves be instantly actionable outside the context of a lawsuit are showcased and inscribed in permanent public records; today they are even beamed to a nationwide audience via courtroom cameras.

Among the externalities of courtroom processes should also be reckoned their error rate. Litigation over the drug Bendectin, used safely for decades against morning sickness in pregnancy, illustrates this. Leading scientific authorities agree that Bendectin does not cause birth defects. Most American courts have agreed, but a few juries have voted the other way. The makers of Bendectin, observing this inconsistency, offered well over $100 million to set-

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tle a 1,000-case consolidated action. (Dissident plaintiffs' lawyers torpedoed the offer and insisted on going to trial, where they lost outright and got nothing.) That $100-million offer represented in large measure the chance that juries would misunderstand the facts about the drug. If the stakes are high, an entire litigation industry can prosper simply by speculating on the likelihood of the errors occasionally committed by juries.

One would have thought that a legal system newly sensitized to the problem of externalities would have been especially careful to minimize those it inflicted itself. Instead, each of the developments facilitating lawsuits has widened the scope for litigants to impose uncompensated costs on one another.

In a survey of Chicago litigators, more than three-quarters cheerfully admitted using various procedural tools to run up their opponents' costs and keep them scrambling to respond. "I use [pretrial] discovery to hurt my opponent and help my client," said one in tones of almost winsome candor. "It's something that's second nature to me." Popular techniques in depositions (which go on with no judicial officer in attendance) include what American Bar Foundation researchers have called "harshly aggressive styles of questioning designed to make the opposing party decide he never wanted to repeat such an experience." The idea, said one lawyer, is to "see if you can get them mad," putting them "through the wringer, through the mud" so that "they are frightened to be a witness and ... are a much worse witness."

These traumas are not wholly overlooked in academic models of litigation. But they are generally lumped into a miscellaneous category of "transaction costs," which are too easily ignored when policy recommendations are made. Besides, a little pain might be thought to advance, or at least not to retard, the goal of deterrence and punishment. After all, the point is more to drain the plasma from the designated wrongdoer than to transfuse it to any particular plaintiff—so that the process might as well be conducted by Count Dracula as by Florence Nightingale.

But the costs that litigants inflict on each other are fundamentally different from—and more dangerous than—the transaction costs of ordinary economic activity. It is reasonable to assume that the transaction costs of real-estate purchases or supermarket checkout lines will gradually drift downward over time; both sides profit when they fall, and a fortune awaits the innovator who finds an important new way to cut costs. The litigator, by contrast, has

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every incentive to search for new and better ways to make life more difficult for his opponent; he will inflict three dollars of cost on the other side, even if it costs his own client an added dollar.

Other countries' legal systems seek to curb the heedless imposition of these costs. To begin with, they do not grant lawyers the extensive array of coercive powers accorded them by American rules of civil procedure. They also require, through "prevailing party" fee rules, that the losing side pay compensation to the winners for some of the costs that are not so readily avoided.

American law has long lacked a direct financial levy of this sort to discourage cost imposition; more recently it has done away with the series of indirect regulatory barriers that served many of the same ends. Hence the peculiar evil for which American law is famous: a lawsuit's target may spend millions of dollars, over years, to vindicate its good name; it may finally win a hands-down victory, and then watch its tormentor simply stroll away and look for another victim.

Because America by and large fails to recognize a right of redress for wrongful litigation, most prevailing plaintiffs suffer along with most prevailing defendants. Many valid, airtight claims trade for far less than their dollar value on the settlement market, and others cannot economically be pressed at all. Meanwhile—in a seeming, but not real, paradox—plaintiffs with weak, speculative cases can frequently win large settlements, mostly because of defendants' eagerness to avoid being tied up in court.

Rule 11 and its critics

In the past few years there has been a pioneering, if modest, attempt to reverse this trend and begin curbing at least some unwarranted litigation. Rule 11 of the Federal Rules of Civil Procedure, as modified in 1983, directs judges to assess sanctions against lawyers or litigants who file baseless suits, claims, defenses, or motions. Commonly, although not invariably, the sanction consists of ordering the wrongdoer to compensate the opponent for the legal fees and other expenses incurred in responding to the wrongful claim. Under Rule 11, in short, some of the losses from wrongful litigation are no longer left to "lie where they fall," but are charged to the industry that creates them.

The resulting irony is no less piquant for being predictable. The emergent litigation industry has built its fortunes on making every other profession and industry pay for its mistakes, real and imag-

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ined. It has insisted on the fullest possible measures of compensation for harm done, the broadest definitions of wrongfulness, and the easiest standards of recovery. But it wants none of these lessons applied to itself. Organized plaintiffs' lawyers and those sympathetic to their cause bitterly oppose Rule 11, and they have mounted a sustained effort to curb the rule's application, if not to repeal it entirely.

The trial lawyers' arguments against Rule 11 provide a thoroughgoing critique of deterrence theory, at least as applied to themselves. Lawyers complain, for example, that the standard of liability under the rule is not defined clearly enough for them always to predict what sort of dubious lawsuit-filing will trigger sanctions and what will slip by. This could have a "chilling" effect, they say, not only on defective or hazardous lawyering but on worthwhile and socially beneficial innovation by lawyers as well.

Griping is also heard about the problem of determining who will have to pay for what. Judges can impose Rule 11 sanctions on lawyers, clients, or both; on the lawyer who prepared an offending paper, the one who signed it, or both. In short, the rule menaces the accomplices and higher-ups in wrongful litigation in a way that is said to be terrorizing and unfair.

Like all litigation, Rule 11 absorbs time and money and can be used as a tactical weapon. It is said to disrupt relationships between parties who ought to stay on amicable terms—such as opposing lawyers who are apt to run into each other in later cases. And it is argued that the rule saddles lawyers with responsibility for mistakes that, however damaging to an opponent, may have been made in good faith. What will happen to the profession's morale if members are punished for garden-variety negligence or—the ultimate horror—for no fault at all?

In reality, Rule 11 sanctions are remarkably mild and benign compared with other measures of legal damages these days. A Rule 11 finding usually calls on the guilty party to pay the legal fees that the other side was needlessly forced to expend. Thus only actual out-of-pocket costs are assessed. Damages aren't tripled or punitive—even though making an example of wayward litigators would avenge the courts' dignity and generally deter wrongful lawyering, much of which goes undetected. There is not much hope of inflating Rule 11 damages by calling in an imaginative expert witness to play around with thirty-year income projections. The shifting of fees doesn't cover emotional distress or unhappiness caused to fam-

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ily members—both of which are products of groundless lawsuits. The litigation industry, in short, is getting off very easy with Rule 11—even if it won't admit it.

Some argue that law as a profession serves the public good, and that it would be a shame to instill such a terror of exposure to legal sanctions that cautious people would hesitate to enter the profession. But all other professionals, starting with doctors, have offered such arguments before in court, and no one has argued more effectively against them than the plaintiffs' lawyers. Modern legal commentators routinely reject the notion that the high social value of someone's work in general is any reason to make him immune to charges of civil liability; a doctor may have saved a hundred other lives, they claim, but that is no reason for the law to be the *least bit merciful when he needlessly loses patient number 101.*

Nor do today's plaintiffs' lawyers accept as an excuse that an enterprise is carried on in a spirit of public service or self-sacrifice; instead they have urged courts on in demolishing the "charitable immunities" that once protected religious sisterhoods and community volunteers from being sued when harm came to those provided for in their philanthropic hospitals and schools. Lawyers also pay no heed to the pleas of accountants and nurses that their professions are too thinly capitalized to serve as residual insurers against misadventure.

Now, suddenly, lawyers find themselves backed into the same corner. On this one issue, if on no other, many trial lawyers argue that the power of courts to rectify human failings has to stop somewhere, that deterrence of wrongdoing and compensation of victims must be balanced by a due concern for freedom of action, that at some point it is better to put an end to conflict than to entertain every new grievance and claim. Although perhaps the most affluent group of professionals in the world, lawyers seek for themselves a supercharitable immunity, covering negligence and even wanton misconduct. No "duty of care" toward an opponent is ever to arise. No compensation of victims, no accountability for wrongdoing, no deterrence of irresponsible harm. Just a pleasant stream of revenue.

If those who administer the machinery of justice tremble in fear of its workings, perhaps it is time to put a well-padded glove on the invisible fist for everyone else.

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Controlled choice in Massachusetts public schools

CHARLES L. GLENN

THE DEBATE over school choice—the hottest item on the American education-reform agenda—has unfortunately generated more heat than light. Endorsed by presidents Reagan and Bush, by the nation's governors, and by many business leaders, school choice is strongly resisted by the National Education Association, by many civil-rights leaders, and by most public educators. Supporters and opponents alike spin abstract scenarios in which choice will either solve the ills of American education or send it into a rapid decline. They would do better to consider the actual results of systems of parental choice that already function in other nations—and in ten Massachusetts cities.

The great majority of American schoolchildren are assigned to particular public schools on the basis of where their parents can afford to live. What choice of schools exists (and there is actually a great deal) is largely exercised by middle-class parents in choosing a neighborhood or suburban community. Otherwise, educational choice tends to exist only for children with handicaps or learning disabilities. While educators readily acknowledge that not every

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school will meet the distinctive needs of these pupils, somehow they generally consider it illegitimate to take educational considerations into account in deciding which school will be best for other children. Similarly, while teachers and principals constantly lament parents' failure to support the work of the schools, the same professionals often resist proposals that parents be allowed to select a school that they can support wholeheartedly.

Opponents of parental choice of schools have primarily argued that it will produce new inequities in educational opportunity, "winners and losers." The more sophisticated parents and the more academically able students will take advantage of school choice by leaving their urban neighborhood schools, the argument typically goes, with the inevitable result that those left behind will be victims of educational neglect.

This argument is factually wrong in two ways: the present system of residence-based assignments has by no means made winners of urban and minority children, and there is ample evidence that parental choice need not lead to winners and losers, as we will see when we look at the evidence from Massachusetts.

Nonetheless, the argument is morally correct in this sense: if parental choice is to gain general acceptance, it must be shown to improve the quality of education available to all students. In arguing for the benefits of choice, it is not enough to point to the success of some urban magnet schools—if this success comes at the expense of other schools and the pupils who must attend them.

While some supporters of choice accept inequitable outcomes with a certain complacency, choice plans that have been successfully implemented seek to protect equal access and, when relevant, to further desegregation.

The most consistent of these approaches is "controlled choice," whereby attendance areas for individual schools are abolished and all public school pupils are enrolled on the basis of choice. The public schools attended by more than 145,000 Massachusetts students now operate under this system. Unlike "winner-take-all, devil-take-the-hindmost" strategies of competition among schools, the Massachusetts system of controlled choice seeks to provide comparable benefits to all pupils. It also aims to increase the effective participation of low-income and minority children—and their parents—in the educational process, while stimulating every school (not just a few magnet schools) to become more effective.

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The usual opponents of controlled choice have been joined by more libertarian critics; the latter argue that any controls established in the name of equity fatally damage the very principle of the free market, give the misleading impression that parents have real options, and prevent fundamental school improvements.

A careful examination of the actual functioning and results of controlled choice in Massachusetts should lay these concerns to rest. The Massachusetts experience demonstrates that placing restrictions on choice to promote integration does not deprive it of its liberating power. It should also reassure those who see choice as a menacing elevation of private over public concerns. Letting parents choose is a policy that demonstrably works when well designed; it harms neither individual interests nor the common weal.

The flaws of magnet schools

Contemporary experiments with choice grew out of the creation of magnet schools that were launched to attract white students to inner-city schools. Suddenly, educational quality and innovation (at least in the magnet schools) became essential if school systems—and elected officials—were to avoid the controversy associated with mandatory desegregation. In the process, the belief that a single formula for schooling was best for every student received a blow from which it shows no signs of recovering.

Massachusetts, which in 1965 had been the first state to adopt legislation calling for racial balance in its schools, repealed some of its enforcement provisions in 1974, substituting a program to encourage the development of magnet schools to promote desegregation. Funded initially at $2 million, the annual appropriation quickly grew to over $5 million, together with 90 percent of the cost of new facilities—nearly $500 million has been approved so far—and millions more in transportation necessary to operate magnet schools.

But despite the considerable success of magnet schools, it began to be clear that they had negative side effects. While expanding parents' opportunity to choose, magnet schools also increase the number of disappointed applicants and thus of children assigned involuntarily. Typically the schools have several times as many applicants as they can accept, so that hopes are raised only to be disappointed. Since magnet schools, limited in their capacity,

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cannot provide choice for all, parents have been placed in the position of having to wait all night to register their children for scarce magnet-school seats. In Springfield, Massachusetts, only 37 percent of magnet-school applicants could be accommodated this year, while Worcester could accept only 600 of 1,700 applicants to a new citywide magnet school.

By definition intended to be more attractive than other schools, and often given additional resources and a freedom to be distinctive that other schools do not enjoy, magnets drain energetic and motivated staff and parents as well as funding from non-magnet schools. In many communities, though not in Massachusetts, magnet schools are also allowed to screen and select among applicants; thus they leave other schools with the more troublesome and less academically able students.

In addition, since the focus has been upon achieving a racially integrated enrollment at the individual magnet school rather than in the system as a whole, the effect may be to make other schools even more segregated. The federal magnet-school assistance program continues to operate under policies that force school systems "intentionally [to] maintain 100 percent minority schools in order to keep up white enrollment in their federally funded magnets," according to one recent *Education Week* article. In Chicago and other large cities that have relied primarily upon magnet schools to meet their desegregation obligations, many schools remain completely segregated.

How controlled choice works

In recent years, out of concern for the growing gap between magnet schools and other schools, Massachusetts cities have been encouraged to go beyond simply providing magnet schools by implementing system-wide controlled choice.

Controlled choice works like this: automatic assignment of pupils to schools on the basis of where they live is abolished, and the parents of children new to the school system or moving to the next level of schooling receive information and (if they wish) counseling about all options before indicating preferences. Then assignments are made, satisfying these preferences so far as is consistent with available capacities and local policies and requirements. For example, pupils living within a specified distance of a school may be given preferential access to the available seats, thus

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disadvantaging (though not excluding absolutely) those who live at a distance. Similarly, race- or gender-balance criteria may be applied. Such policy decisions vary from plan to plan. Though it would be incorrect to suggest that controlled choice must necessarily be linked to desegregation, it does constitute a powerful means of achieving desegregation when that is required.

Controlled choice is intended to accomplish four objectives:

(1) To give all pupils in a community (or in a geographical section of a larger city) equal access to every public school, regardless of where their families can afford to live;

(2) to involve all parents (not just the most sophisticated) in making informed decisions about where their children will go to school;

(3) to create pressure for the improvement, over time, of every school through the elimination of guaranteed enrollment on the basis of residence; and

(4) where necessary, to achieve racial desegregation of every school with as few mandatory assignments as possible.

Ten Massachusetts cities, including Boston, Cambridge, and Chelsea, are implementing assignment plans based upon universal controlled choice. These ten school systems enroll over 145,000 pupils, 18 percent of Massachusetts's public school population. Six other Massachusetts cities, enrolling more than 60,000 students, have chosen to retain assignment plans driven by geography as well as by parental choice, and to seek to achieve desegregation by shifting programs from one school to another and by developing magnet schools. Choice is a major factor in school assignments in these communities as well, with up to a third of the newly enrolling elementary pupils in non-neighborhood schools. Thus over 200,000 students altogether (25 percent of the state's public school enrollment) attend schools in communities that are actively encouraging parental choice.

Controlled choice removes all enrollment guarantees for schools, while providing support for program development; thus initially unpopular schools will have a chance to transform themselves. The great unanswered question, as we will see below, is whether real sanctions will be imposed upon the staff of schools that continue to fail to attract applicants.

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Criticisms of choice

Most comments on choice from advocates of educational equity have been negative, centering largely on the conviction that choice inevitably hurts poor and minority children and their families. It is possible to distinguish at least seven criticisms of parental choice:

(1) Choice is often among schools that can select or track students.

(2) Choice is usually among schools that, while formally equivalent, in fact differ in quality.

(3) Parents (at least poor parents) don't really want to choose a school for their children or, alternatively, are incapable of doing so in the best interest of their children.

(4) Choice is illusory, because many parents are disappointed as a result of desegregation requirements and other restrictions.

(5) School officials, eager to create the appearance that choice is satisfactory to those affected by it, mislead parents about the options available to them.

(6) Choice will lead to all sorts of weird and divisive options, as fanatics of every stripe and/or unscrupulous entrepreneurs take advantage of choice to peddle their wares.

(7) Choice will to the contrary not lead to true diversity, because school staff lack the imagination and professionalism to create real alternatives.

In short, critics of choice have predicted the onset of all sorts of disasters. Fortunately, however, after ten years in which choice has become the primary basis for school attendance in a growing number of Massachusetts cities, there is no sign that any disasters are occurring.

The first charge—that choice involving selective schools leads to inequity—has been advanced by the Chicago-based advocacy organization Designs for Change. The group's 1989 study, T*he New Improved Sorting Machine: Concerning School Choice*, looks at a number of practices in secondary education, including "high school admission, within-school tracking and grouping, and practices employed in promotion from grade to grade." Data are drawn from New York City, Chicago, Philadelphia, and Boston.

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Virtually all of the evidence showing that choice leads to inequities is based upon Boston's three selective examination schools, which long predate the introduction of school choice. Boston Latin School, as the authors note, "has continued for 350 years as the premier selective admissions high school within the Boston Public Schools."

Now it is certainly possible to argue that Boston operates a two-tiered system of education, and that poor and minority students suffer disadvantages as a result. It is also possible to argue that these highly selective schools represent a lifeline for hundreds of poor but ambitious students each year, offering them an opportunity that no comprehensive urban high school would provide. Furthermore, one can support the continued existence of these options (which enroll one-fourth of the secondary students in the system), while urging that their student selection and support practices be improved. As the state official with primary responsibility for such issues, I have taken all three positions.

But the argument about whether there should be selective secondary schools in a large system is not an argument about parental choice of schools at all; parents do not "choose" Boston Latin School for their children, any more than they choose a German *Gymnasium*. An invitation is extended, based upon academic achievement and a standardized test, and few decline such a privilege.

The problem in Boston is that until recently most parents have believed that the examination schools provide virtually the only desirable options among public secondary schools. Those whose children are not admitted are strongly inclined, if they have the resources, to quit the system; they tend to define other high schools more by what they are not than by what they are and can offer. The solution, surely, is not to eliminate the examination-school alternative through reinstituting comprehensive high schools, but to assure that all schools and programs are clearly focused, demanding, and distinctive.

As Boston's comprehensive plan for secondary education evolves, each school will develop and offer a clear educational focus, because it will have to appeal to parents to secure an enrollment. The solution to the problems caused by "choice" among Boston high schools is more real choice, not less.

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Hobson's choice?

Some critics claim that there are few desirable schools in most cities, so that few if any of the options would be worth choosing. My own experience over twenty years with children in eight different Boston public schools suggests that the charge is unfair, though certainly there are schools to which I would never want to send one of my children. Because controlled choice makes it possible for children of middle-class parents to be assigned to any school in the system, it creates pressure on the inferior schools, which must either become acceptable or go out of business.

This pressure is, in fact, one of the primary benefits resulting from the institution of universal choice. We are certainly wrong to continue to operate schools that well-informed parents would not want their children to attend—even if the parents whose children actually attend them do not know enough to protest.

The existence of these deplorable schools is not an argument against choice, though; after all, children have been assigned to them involuntarily all along. In addition, critics of choice are wrong to assume that the initial condition of too few acceptable options will continue indefinitely. Instead, a well-designed system of choice ensures that schools go through changes that make them more attractive.

As an example of how school selections change, analysis of first-place preferences in Boston for sixth-grade enrollment in 1989 (the first year of controlled choice in Boston) and 1990 shows that the number of relatively popular schools doubled in only the second year of controlled choice. The strong lead of a few schools was reduced as others "tried harder." On the other hand, the least popular schools attracted even fewer applicants. Three schools were closed. Others are on the danger list; if they are not strengthened after an honest effort, they will be closed and perhaps reopened "under new management."

Realistically, the goal of a choice plan cannot be to assign each student to his or her first-choice school, but controlled choice will not function as it should unless every student can be assigned to an acceptable school. This can happen only over time, as the natural pressure of choice combines with outside support to strengthen the weaker schools or—if they cannot be strengthened—to change staff or close them down. Boston's controlled-choice plan provides

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explicitly for a three-year period during which schools that attract fewer applicants will be helped to change their programs and images—or else.

Children attend schools that are of uneven quality; that is an unfortunate fact, and it always has been. The blame does not lie with parents' choices but with neglect and complacency on the part of educators and public officials. The power of parental choice is that schools cannot remain seriously inadequate, so long as parents are given accurate information and honest counseling.

Dumb parents, foolish choices?

Schools will not improve, of course, if the third criticism of choice—that poor parents are uninterested in or incapable of choosing good schools for their children—proves accurate.

The first half of this charge can be dismissed out of hand; state-funded parent surveys conducted in Massachusetts cities implementing school choice consistently show ten- or twenty-to-one support for school choice. As for the second half, critics like Abigail Thernstrom, writing in these pages, have argued that "academic excellence is seldom what parents chiefly value in a school. A convenient location, a particular social atmosphere, good sports facilities: these are the sorts of considerations that govern." Perhaps it would be appropriate to respond: So what!

Academic excellence is not the only aspect of education that matters. Parents (including professional educators) may care as much or more about inculcating character, creativity, and social skills. We can demand that schools—and students—be adequate, that they meet proficiency standards, but whether to seek excellence is surely a personal decision. In fact, surveys of parents and their actual choices show clearly that they do care about the quality of schooling, however they may define it. Parents may not have a clear understanding of the specific theme of a school, or know how it rates on test scores, but they respond to their perceptions of quality.

Location is important; other things being equal, parents will generally choose a school near home. If they think that a more distant school is better, however, most parents will prefer it. The assumption that parents want only neighborhood schools receives little support from the pattern of school applications in cities implementing choice. This is true even when race is at issue. Among

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seven middle schools in Boston's East Zone, 26 percent of white pupils entering sixth grade chose the Gavin School in largely white South Boston, but 39 percent chose the McCormack School in largely black Columbia Point.

The schools selected by minority parents follow the same pattern. In Boston's North Zone, for example, 31 percent of black applicants chose the Barnes School in East Boston, an area in which few black families live, while only 10 percent chose the Dearborn School, in a part of the city populated mostly by minorities. As a parent counselor in Boston wrote me recently, "The first question asked by most students and parents [when we make suggestions] is, 'Is it a good school?' Location does make a difference to many but it is only occasionally that a convenient location is requested, but mostly a 'safe' location, and considering what is going on in Boston, we expect this to be a prominent concern."

But do parents always make wise choices? Of course not. But parents' occasional failures should not preclude their choosing schools; despite their errors, no one suggests that parents be forbidden to decide how much television their children will watch or what kinds of food they will eat. After all, if it is wrong for parents to choose schools that would harm their children, it also is wrong to assign children to those schools involuntarily. Public policy should assure that there are no truly bad choices, through some form of public licensing and oversight; it should not, however, substitute the judgment of an official for that of a parent, simply because parents do not take into account every nuance of school quality. It is not as though educators themselves agree about the characteristics of good schools.

If, as Thernstrom argues, there are "drugged parents who won't and probably can't make informed choices for their children," that is all the more reason to create systems of universal choice that create pressure to improve all schools, not just to offer magnet schools that convince middle-class parents to keep their children in the school system. After all, how do the children of negligent parents benefit when their neighborhoods alone determine which schools they attend?

The risk that a few parents will make ill-informed choices or fail to choose altogether should not carry much weight. While society is not always successful in protecting the children of neglectful parents, the adequacy of schooling is comparatively easy

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to oversee. Perhaps we should be more concerned about the millions of children who suffer today through assignment to inadequate schools that are located in their neighborhoods.

Desegregation and other restrictions

Some believe that constraints imposed by the need to desegregate, along with other restrictions, will make for dissatisfied parents; constricted choice, they argue, is really no choice at all. To cite Thernstrom again: "[E]ven a cursory look at existing 'controlled choice' programs shows that controls for purposes of racial balance seriously compromise choice."

Given desegregation mandates, one could reply, the question is not whether choice is compromised, but whether any other method of allocating students can provide parents with as much choice. An inevitable cost of partial freedom is to render any remaining constraint galling. So long as children are assigned to schools involuntarily on the sole basis of where they live, of course, the issue of disappointment does not arise; it is unavoidable, though, when parents are allowed to indicate other preferences and when no school is guaranteed a captive clientele.

The entry-level Boston grades assigned under controlled choice last year and this year are more desegregated than was the case before, and the great majority of these pupils were assigned to schools that their parents had indicated were acceptable: 74 percent of incoming sixth graders were assigned to their first-choice schools, and another 10 percent to their second choices; only 13 percent were assigned to schools not selected by their parents. Only 15 percent of first graders and 9 percent of ninth graders were assigned to unrequested schools.

Some Boston pupils, it is true, were assigned involuntarily. A closer look at the figures reveals, however, that desegregation was not primarily responsible. Of Boston's fifteen high schools, seven did not attract enough applicants of any racial/ethnic category to fill their available places in the ninth grade voluntarily. Some mandatory assignments were necessary, because hundreds remained without school places—even though the capacity of the more popular schools had been increased to accommodate as many students as possible. Desegregation considerations did not "compromise choice"; instead, space limitations dictated the unfor-

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tunate denial of choice to some, regardless of their race, creed, or color.

In only one Boston high school out of fifteen did desegregation requirements lead to freshmen of one racial/ethnic category being assigned involuntarily, while those of another race or ethnicity who had made it their first choice were denied admission.

The fact that students in particular racial or ethnic categories must be assigned involuntarily because of an insufficient supply of places in acceptable schools is deplorable. It should be kept in mind, however, that Boston, like other school systems, has always assigned students to these least-popular schools. Choice has not changed that reality; it has simply increased public awareness of the problem, thereby creating pressure both to improve or close those schools and also to allow other entrants into the educational marketplace.

Even if desegregation were not a concern (as it must be in Boston, due to its past history of deliberate segregation), it is difficult to conceive of circumstances under which all pupils could be assigned to their parents' first choices, unless enrollment declines and budget surpluses lead to ample slack capacity in the more popular schools. For a variety of reasons, some schools will always attract more applicants than they can accommodate; this is also a problem in Great Britain, where desegregation is not a factor.

A wise assignment policy will use every bit of space in the schools that parents want, while leaving the less popular schools under-enrolled. Over several years the more attractive options are replicated and the less attractive are improved, closed, or converted.

Controlled choice functions perfectly well to assure fairness and to create pressure for every school to improve in a community in which desegregation is not at issue, like Fall River, Massachusetts. Controls are still needed, though: there must be some fair basis for deciding who will be admitted to a school with too many applicants and who—pending creation of new space or new options—will be assigned involuntarily.

The danger of false counsel

A fifth criticism of controlled choice is that officials may mislead parents about the options available, in order to create the appearance that choice is generally satisfactory to those affected by

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it. "Many will be 'counseled' to list as their top 'choices' schools that they would never freely select," complains Thernstrom. She quotes a report in which I criticized "the failure or inability of the parent information staff to counsel parents away from choices which they should have known could not be honored." "In other words," Thernstrom continues, "if the parent information staff does its job properly, families will list only those schools in which there is room for children of their race. If the families comply, the state comes out ahead, since it can report that a large percentage of parents get one of their desired schools."

This charge is based upon a common misunderstanding of the implementation of parental choice. Just as high school guidance counselors commonly recommend that students apply to more than one college and include some less-competitive selections, to assure that they get in somewhere, so information-center staff encourage parents to distribute their preferences sensibly among schools that they find acceptable.

The process of making assignments does not discourage parents from selecting a popular school as their first choice. Here's how it works. The applications of students eligible to apply for ninth grade, for example, are assigned random numbers, and each application is dealt with in turn. Those with the lowest numbers are assured of assignment to their first-choice schools. If an applicant's first-choice school has been filled, the assignment program checks whether space is available in the second-choice school, and so on through the options indicated. There is thus no advantage to not selecting a popular school as a first or second choice, since that will not affect a student's chances of getting into a third-choice school: each applicant is dealt with in turn until the attempt has been made to assign the student in question, based upon all of the preferences that he or she indicated on the application.

Perhaps one student in five does not receive an assignment in the first round; none receives an involuntary assignment. An applicant with a high random number who has selected only the more popular schools may receive no assignment in the first round (generally in April). The parents are contacted and encouraged to make a new selection of schools, since their original choices are no longer available. Parents may ask to be placed on the waiting list for one or two of the original choices, but they are also counseled about schools that still have space available. During the

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summer months, the parent information centers are able to issue assignments on the spot to parents who select a school with space. If a parent does not eventually select a school with open slots, the student will be assigned to the school nearest where he or she lives that does have room.

My criticism of the parent information effort last year in Boston was that counselors did not know which schools had no space available; thus many parents wasted their efforts by requesting schools that were already full. For example, more than half of those requesting sixth-grade seats applied to four schools (out of twenty-two) that were already virtually full.

After all, the whole point of offering a second chance to apply is to get parents to take a closer look at schools that might not be familiar to them—and perhaps to discover some unexpected merits. There is no special virtue in disappointing more parents than strictly necessary.

Intolerance and fanaticism

Another common charge is that school choice will be exploited by fanatics and/or unscrupulous entrepreneurs, who will run schools that are divisive or educationally unsound. Although this is not a problem that could arise with controlled choice among existing public schools as it now functions in Massachusetts, the charge is brought so often that a response seems necessary.

Perhaps the best way to answer this speculation—advanced even by such otherwise sensible and open-minded educational leaders as Albert Shanker of the American Federation of Teachers and California schools superintendent Bill Honig—is to point to the history of parental choice in the United States and other nations.

The charge that educational diversity will lead to social divisiveness, as children are nurtured by fanatical teachers determined to instill intolerance and hatred, has been made repeatedly over the past two centuries in Western Europe and in the United States. Horace Mann saw a threat in the peaceful Shakers; Catholic schools have been accused in many nations of being the advance guard of papal tyranny; Dutch elites feared that Protestant parents' desire for sectarian schools would destroy the common school by which, they thought, the nation was knit together. More recently, many on the left—even those who are otherwise sympathetic to the social and cultural aspirations of immigrants—have been made

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uneasy by the request of Moslem parents in Western Europe for public support of Islamic schools comparable to that received by Christian and Jewish schools.

The argument that it is somehow dangerous to allow differences among schools that correspond to the desires of parents is often advanced by critics of school choice. It is too rarely challenged, though; there is no evidence that Catholic, Protestant, or Jewish schools have produced graduates who are more intolerant, fanatical, or undemocratic than the graduates of public schools. The Netherlands is a tolerant society, though 70 percent of its children attend non-government schools; the choice of publicly funded denominational schools in Australia, Britain, Canada, France, Germany, and other democracies has been a source of political peace rather than conflict.

Nor does immigration raise the stakes of educational monopoly, as some claim. Despite the mythology that surrounds the public schools on the Lower East Side of Manhattan and in other ports of entry, there is no evidence that the children of immigrant families who chose religiously based non-government schools turned out to be less desirable Americans.

But would unscrupulous entrepreneurs take advantage of choice policies to create cut-rate, profit-making operations providing an inadequate education (but glitzy enough to attract the unsophisticated)? Surely this danger can be averted through accreditation and inspection, either by government or by semipublic associations. It is not as though the present restriction of public funding to government-operated schools has resulted in uniformly acceptable quality. Other nations have certainly shown that high educational standards can be maintained in schools not operated by the government.

The Massachusetts experience with choice among public schools suggests another important guarantee against truly awful schools: a system of parent information and counseling with a special mission of reaching poor and language-minority parents with accurate and user-friendly information. No system of school choice that fails to inform and counsel parents, especially those who do not respond to the printed word, deserves to be called fair. Genuine equal access to information and the skills to use it are essential to the empowerment of poor and language-minority parents and their children through education.

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Beyond controlled choice

Finally, critics of school choice argue that it will not lead to real diversity in education because school staffs lack the imagination and professionalism to create true alternatives. This is probably the hardest charge to answer.

Although we have not always done enough, even in highly centralized school systems, to assure that every pupil has the opportunity to acquire a common body of knowledge and skills, it remains important to encourage the staff of each school to develop its distinctive character in response to the staff's educational vision and the desires of parents. This will not be achieved through adopting the latest fad or imitating what another school has done successfully; it requires thoughtful hard work over months and years.

Creating a few magnet schools is not so difficult. Every school system has some teachers and a principal or two who are eager to try out new ideas and create a school that reflects their strongly-held views about what works. But to expect the staff of every school to become clear about a shared mission is to ask staff members to change habits shaped by their training and careers in bureaucratically organized school systems.

Parental choice, like school-based management and "restructuring," depends upon changing the culture of each school. As Eastern European economists have pointed out recently, we have plenty of experience in going from free markets to controlled markets, but very little in going the opposite way. It is hard to persuade those who staff schools to behave boldly and innovatively, so long as they continue to function within a centrally-governed hierarchical structure—especially if the rewards available to them are not tied to entrepreneurial risk-taking.

In the final analysis, controlled choice as implemented in Massachusetts may simply not go far enough to shake up the culture of mediocrity and the low expectations that dominate so many schools. To be sure, Massachusetts schools are getting better, becoming more purposeful and responsive as a result of parental choice. But the pace of change may be too slow to benefit thousands of children whose education has been neglected. And the education system's resistance to change may reassert itself; ways may be found to accommodate the pressures of parental choice, resulting in the failure of yet another reform initiative.

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A number of possibilities that would increase the momentum of choice-driven reform deserve consideration:

(1) Groups of teachers could be permitted to open smaller, less formally organized schools that would operate within the public system free of the usual constraints—provided that enough parents want what they offer. This "charter school" idea has been proposed by Albert Shanker and implemented in East Harlem. Such schools could significantly expand parental options, but the limitation is that most teachers are not motivated to invest great amounts of uncompensated time and energy in creating new educational alternatives.

(2) Pupils could be permitted, as in Minnesota, to cross school-system boundaries and attend schools operated by other public systems. While this may significantly benefit some students, it does not affect the quality of the schools that are rejected, and it presumes that nearby systems provide schools that are markedly different and better. If they are, they may run out of space.

(3) Pupils could be permitted to attend existing private schools with their tuition paid by public funds, as in the current Milwaukee voucher experiment. This increases parental options, but it does not represent a strategy to expand the overall supply of desirable educational alternatives. Also, the exclusion of religious schools from participation in the Milwaukee program (in order to avoid First Amendment difficulties) raises troubling issues of equal treatment of belief and unbelief. A group of minority parents in Kansas City has gone one worthwhile step further; the parents have petitioned to modify orders in a desegregation case, hoping to receive public funding to enable their children to attend nonpublic schools, including explicitly religious schools.

(4) New educational options could be "franchised," as Ted Kolderie has recently suggested. Kolderie proposes that other providers of schooling be permitted to compete directly with public school systems; applicant groups would have to be chartered by a public body, which might be composed of educators, parents, social-service professionals, and representatives of private groups in the learning business. The Netherlands has had great success with educational alternatives that have been chartered in this way.

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It seems likely that we will be exploring and testing such proposals intensively over the next years, as we see the limitations of choice within present constraints as a means of achieving fundamental reform. Any of these reforms could fit within the framework already created in communities that have adopted controlled choice. While parent information centers in Massachusetts provide information only about options within a single school district, the system could easily be adapted to offer options in other districts or among nonpublic schools.

In conclusion, then, controlled choice as practiced in Massachusetts will not solve all of the defects of American education. But we have found it to be a powerful way to expand the options available to children from poor families, and to put pressure on urban schools to become both more effective and more responsive. The next stage in the development of choice must be to find ways to expand options, in response to the demands of parents and the vision of teachers.

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Limiting government by limiting congressional terms

JAMES L. PAYNE

THE DEBATE ON the limitation of congressional terms features a provocative matchup of contenders. In one corner are the voters, who support term limitation. A nationwide *New York Times*/CBS poll on limiting terms for the House of Representatives was conducted last April; it showed 61 percent in favor and 31 percent opposed. When offered an opportunity to apply term limitation at the local level, voters have seized it: referenda limiting state legislators' stay in office were supported in 1990 by 67 percent of Oklahomans, 71 percent of Coloradans, and 52 percent of Californians—despite the participation of Hollywood stars in a well-financed opposition campaign.

In the other corner are just about all the pundits and scholars. They think that the idea of limiting terms lacks merit. Political scientist Charles Jones says that the public is making an uninformed "guess" that limiting terms will fix what ails the American system. "They don't know this is the cause," he says. "This is a solution in search of a problem." Walter Dean Burnham poohpoohs term limitation as an example of the "old American temptation, when things political seem to be working badly enough, to

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go for the rigidities of constitutional amendment to set things right." And in the pages of this journal Nelson Polsby has called term limitation "destructive," asserting that its appeal is based on "ignorance in the population at large."

To some degree, Polsby's complaint is justified. The general population is unaware of the fine points of constitutional reform. But this does not mean that it is wrong to support term limitation. Instead, I believe that the public's distance gives it a special and valid viewpoint; it sees the forest instead of the trees, and from this broad perspective the case for term limitation is strong indeed.

There appear to be three main arguments against term limitation: 1) it would deprive the country of its most experienced, hence its most capable legislators; 2) it would weaken the democratic process; and 3) it would increase the power of federal administrators and special-interest lobbyists.

A close examination of these arguments, though, reveals their many factual and logical flaws. When these errors are corrected, in every case an argument emerges that actually *supports* limits on congressional terms.

Experience

In most types of work, on-the-job experience is considered useful, making the employee more valuable to the employer. That is why help-wanted ads will often say, for example, "Wanted, cook, 5 years experience minimum." Everything else being equal, we tend to assume that more experienced workers are more competent.

Polsby contends that this same logic should apply to Congress: "The job of a member of Congress is varied and complex." As a result, limiting congressional terms would mean that "the knowledge and experience that ... able [senior] members had acquired at our expense" would be lost.

The argument about experience does not, however, apply to all jobs. It does apply to most positions, for which retaining the job and doing it involve the same skills. A cook who always burned the eggs would never get five years of experience; he would have been fired long before.

In some fields, though, the ability to retain the job differs from the ability to perform it well. This is the case when retaining a job involves ingratiating yourself with the boss, who is too far away to observe your actual performance. Congressmen, who are miles away from the voters who hire and fire them, have jobs of this

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sort. Voters want diligent and farsighted policy analysts to draft legislation and supervise the bureaucracy. Yet these abilities are not tested in the selection process. Instead congressional elections too often are mass popularity contests that reward energetic self-promoters, actors who convincingly play the role of "congressman" for the distant audience of voters.

In principle, these distinct skills—policy management and electioneering—might simply be independent of one another. It seems more likely, however, that something of an inverse relationship exists: congressmen who are especially good at securing electoral support tend to have noticeable shortcomings as policy makers.

I can illustrate this point with an astonishing phone call that I received several years ago. The call came in response to an article that I had written in the *Wall Street Journal*, which argued that congressional Democrats strongly supported subsidies for business. As proof I quoted a House Democrat who a few years earlier had urged approval of a subsidy for the giant aerospace companies. The phone call came from his aide. She insisted that I supply the citation for the quote; she said that her boss was sure that he had never said such a thing.

This request was astonishing because it meant that someone three thousand miles away was better informed about what a congressman had said in Washington than the congressman himself! The statement that I had quoted was not a casual remark but the central point of a pro-subsidy speech that he had delivered on the floor of the House prior to a roll-call vote on the subsidy. I referred the aide to the page of the *Congressional Record* on which the speech appeared. She later conceded that the congressman had been correctly quoted. "You see," she continued in what she presumably considered was a sufficient explanation, "he has a big aerospace firm in his district."

Now I was doubly astounded. If this congressman routinely supports subsidies for local interests, why should he have been surprised to find himself quoted in defense of government aid to the local aerospace industry?

This episode illustrates how electioneering skills conflict with policy-making skills. To succeed with the mass public, you need the ability to conform to the environment of the moment. When aerospace manufacturers ask for support, you provide it, not thinking how another audience would judge your action. Later, when newspaper readers criticize you for supporting big-business "fat

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cats," you adopt their perspective, forgetting that you ever made the (now) embarrassing speech supporting aerospace subsidies.

This congressman's career proves the value of such superficial position-taking. He recently began his eighth term in Congress, having won reelection in 1990 with 71 percent of the vote. Nevertheless, he is a poor policy maker; he obviously does not seriously consider the real, long-run effects of the policies that he endorses.

Congressmen themselves allude to an inverse relationship between electioneering and policy making. They distinguish between two kinds of members, whom they call work horses and show horses. Work horses are the serious legislators who spend long hours studying policies and their effects, and who quietly craft sane and workable legislation. Show horses are the publicity seekers, who spend little time looking into the details and effects of legislation, using it instead as a media springboard.

I studied the validity of this distinction by looking at the members of two House committees in the 92nd Congress (1971-72). To estimate their legislative work, I counted their participation in committee and subcommittee hearings. Obviously, this is not a complete measure of the diligence of legislators, but it represents a useful indicator. To measure the degree of publicity seeking, I counted how often their names appeared in major newspapers across the country. The results substantiated the distinction between work horses and show horses. Indeed, for non-leadership committee members, the inverse correlation was perfect; congressmen who spent lots of time learning about policies in committee and subcommittee hearings garnered little publicity, while those with extensive media coverage were below average in their committee attendance.

An examination of individual cases illustrates what this pattern means for policy making. For example, one of the show-horse congressmen was Edward I. Koch: he was way above average in getting publicity but way below average in attending committee hearings. His skill as a publicity seeker, however, made him highly electable, both as a congressman and, later, as mayor of New York. Yet his inattention to the substance of policy meant that he was an inept legislator. Koch himself later admitted as much. As mayor of New York, he saw the consequences of various onerous federal regulations, and he loudly complained about them. When reminded that he himself had supported such measures as a congressman, Koch frankly confessed incapacity: "I didn't under-

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stand what I was doing when I was in Congress, because in Congress you spend other people's money."

Koch was a legislator with outstanding electioneering skills but meager policy-making interests. The opposite pattern was well illustrated by Fred M. Schwengel, a Republican congressman from Iowa. Of the seventy-one congressmen in the study, he received the highest score for committee participation; his total of 7,314 minutes of subcommittee attendance was over four times Koch's level. But what became of this Olympic gold medalist of legislative labor? He was defeated by over 15,000 votes in the next election.

In legislatures, "ability" is not a single, one-dimensional variable. It has two distinct components: the skills, drives, and personality needed to succeed in mass popularity contests; and the skills, interests, and character needed to craft sound legislation. Longevity in Congress implies only the first ability. There is no reason to assume, therefore, that the more senior congressmen are more competent. Indeed, if we accept the suggestion that these skills are inversely related, then the more senior congressmen would tend to be less able.

Competence

Regrettably, the political scientists who assure us that senior congressmen are the nation's most valued legislators have never tried to document their contention; they have not even advanced a measure of legislative competence, much less applied it to the real world. They seem blindly to believe that more experience increases the competence of congressmen as well as cooks.

The public is not convinced. It has trusted the evidence of its senses, and what it has seen in recent years is a comic opera of mismanagement. Legislators rail against budget deficits and pass laws against them, even though they have approved twenty years of budget deficits in a row. Our disorderly budget process is characterized by missed deadlines, threatened and actual government shutdowns, and hectic, late-night decision making. Congress has bumbled its way into a $500-billion savings-and-loan catastrophe.

Of course, the president and the executive branch must share the blame for the disasters. Responsibility for mismanagement falls on all the players in Washington, executive and legislative, Democratic and Republican. No doubt, voters would be quite interested in reforms to limit or penalize ineffective executive-branch officials, too.

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The failures of other branches of government do not, however, in any way excuse the increasingly obvious incompetence of our legislators. For example, congressmen now routinely approve legislation that they haven't even read, and this even applies to congressmen on the committees directly responsible for the laws. This practice is so ingrained that a lawmaker can be criticized for resisting it. Several years ago, in a Senate Finance Committee meeting, one of the senators complained about being rushed to approve tax legislation that he had not studied. Chairman Russell B. Long slapped him down: "If we waited until everyone knew what they were voting on, we would never get anything done." Virtually all budget and tax legislation of the past few decades has taken the form of gigantic documents that congressmen don't read; the bills have been approved in such haste that congressmen couldn't have read them even if they had wanted to. The passage of unread legislation means, literally, that at times congressmen don't know what they are doing.

Questioning the intelligence and integrity of legislators is nothing new, of course, but the skepticism of recent years is different. For one thing, criticism is no longer restricted to the uninformed. Leading the chorus of disapproval are the specialists familiar with the specific output of Congress in their fields. Take the tax system: Businessmen, lawyers, and accountants are virtually unanimous in the opinion that Congress has created a tax code that is costly, demoralizing, and chaotic. Law professor Richard Doernberg puts the indictment flatly: "The United States now has the most complex income tax laws in the history of civilization." The burdens of tax compliance alone mean that our confusing and overregulated system costs us hundreds of billions of dollars each year. Writing in the *National Tax Journal*, the director of taxes for the Union Pacific Corporation calls current tax-compliance requirements a "horror show":

> The legislators and their staffs, in approving all these additional requirements and computations, have shown no understanding of how the work will be done and how data [are] maintained....
>
> Someone must inform the legislators and their staffs that legislating is not the same as doing. We should be more productive than spending careers attempting to understand impossible legislation.

Political scientist John Witte, who agrees that the income-tax system is a "mess," has concluded that the only way to straighten it

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out is to transfer its management from inept congressional hands to those of a competent independent body.

In its intuitive way, the public knows that something is wrong with the theory that our wonderfully "experienced" congressmen are "able" legislators. It senses what the theory of legislative abilities expounded above explicitly predicts: the "expertise" that Congress would lose as a result of term limitation has little to do with the legislative competence that the country needs.

Fair elections

Within the canons of strict democratic theory, which holds that voters know both what they want and how to get it at the ballot box, limiting legislative terms would be both unnecessary and harmful. If voters wanted to limit the terms of congressmen, the theory goes, they could do so simply by choosing non-incumbents; since they keep voting for incumbents, they must want to keep them in office. The claim is that voters know what their incumbent congressmen are doing in Washington, that they are familiar with the policies that their congressmen have enacted. They are also supposed to know what the challengers would do if they were elected. In command of all this information, voters are thought to make rational, comprehensive choices on election day.

Common sense tells us that this theory puts impossible demands on voters, who aren't political scientists looking deeply into candidates and policies. For the most part, voters make superficial, impulsive choices on election day, guided by a handful of primitive cues. Among the most important of these cues is name recognition: if a candidate's name is familiar, voters are more likely to vote for him. Another cue is image: the impressions of a candidate's underlying virtues of honesty, compassion, and so forth.

Perhaps the shallow character of voter choice wouldn't be too troublesome if the electoral process had been left alone. Without deliberate intervention, there's a fair chance that candidates with high name recognition would deserve to be famous, and those with an image of integrity would probably be honest. But somewhere along the line, clever campaign advisors realized that name recognition and image could be purchased. A C-minus personality in all legitimate fields of human endeavor can be made into a popular candidate with the aid of a $6-million name-recognition campaign.

Since name recognition and image can be purchased, elections in effect can be bought; the more money you put into the hopper,

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the more votes come out the other end. There are limits to this process, of course. A candidate's real virtues and liabilities do influence voters' ultimate impressions. Nevertheless, the impact of advertising—good old-fashioned Madison Avenue, soap-selling advertising—is pronounced, and everyone these days recognizes it.

Including the federal government. Starting with the Federal Election Campaign Act of 1971 and the creation of the Federal Election Commission (FEC) in 1975, Congress has made a strenuous, showy effort to regulate the flow of money in electoral campaigns. The premise of this regulation is that left to itself, democracy won't work; voters can be illegitimately influenced by mass advertising campaigns. As the FEC's official history explains it, Congress sought to "limit contributions to ensure that wealthy individuals and special interest groups did not have a disproportionate influence on Federal elections." To implement this aim, the FEC has issued hundreds of pages of regulations and every year initiates literally thousands of inquiries and disciplinary actions.

We appear to have reached a clear national consensus on this point: the resources of candidates must be equalized if elections are to be fair. But are they equalized? Voters look around and see a striking imbalance: incumbents have every advantage. In addition to the natural edge of holding office and being able to generate free publicity in the form of "news," incumbents spend hundreds of millions of taxpayer dollars on staff and on mailings. Moreover, the pressure groups prefer incumbents and give them more campaign money. The FEC's own figures show the disparity. In the 1988 elections, for example, political-action committees donated over six times more money to incumbents than to challengers.

Many observers are quite cynical in explaining why Congress does not move to correct these enormous imbalances in the electoral process. Congressmen, they say, reach for every unfair advantage. This judgment may be a little harsh; it is hard to equalize the publicity resources of incumbents and challengers. Nevertheless, incumbent congressmen who grapple with these issues are indeed swayed by arguments that serve their interests. The result is that the real, radical reforms that would remove the incumbents' unfair electoral advantage are repeatedly shelved or watered down.

Term limitation provides an end run around the Washington roadblock standing in the way of fair elections. By putting a limit on congressional terms, incumbents with bulging moneybags would eventually be barred from the competition.

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Limiting government

The most frequently mentioned objection to term limitation may be the fear that it would increase the influence of the bureaucracy and lobbyists. The claim is that new congressmen are naive and pliable, easily conned by seasoned administrators and interest-group spokesmen. Experienced legislators, by contrast, are presumed to be able to resist their blandishments. By this logic, term limitation would mean that "power would flow from elected to unelected officials," as Brookings Institution political scientist Thomas Mann puts it. *Wall Street Journal* reporter Albert Hunt makes the same point: "Term limitation, by removing years of expertise from Capitol Hill, would increase the power of the permanent bureaucracy."

Unfortunately, this theory makes a critical error about the Washington milieu. It assumes that congressmen currently hear both sides of spending questions, that the self-interested claims of administrators and special-interest lobbyists are counterbalanced by the arguments of critics of spending programs. If a balance of this sort existed, then congressmen could grow wiser and more skeptical during their stay in Washington.

But in fact there is no such balance: lobbyists and administrators utterly dominate opinion formation in Washington.[†] The result of their domination is that congressmen with longer tenure tend more uncritically to support the expansion of government programs. Some legislators manage to resist this persuasion, but the overall trend is clear.

Even from a distance, political scientists should have noticed that senior congressmen are not exactly foes of administrators and lobbyists. For one thing, lobbyists themselves hate the idea of term limitation. In last fall's California referendum, they strongly backed the unsuccessful campaign to defeat the term-limitation proposal. Their reasoning was simple. As one lobbyist put it, "We feel it would be a great burden on us if we were forced to continually re-educate the entire Legislature every year."

Senior congressmen stand out as supporters of special-interest spending programs. For instance, Representative Jamie Whitten (D-MS), the most senior member on Capitol Hill, is the patron saint of agricultural-spending programs. Speaking of his agricul-

[†]See my article "The Congressional Brainwashing Machine," *The Public Interest*, no. 100 (Summer 1990).

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tural appropriations subcommittee, he says that "[w]e represent the American farmer"—meaning, of course, not the farmers who actually plough and sow, but the agricultural administrators and lobbyists who have surrounded him for five decades.

We don't have to depend on impressions to decide who favors the growth of bureaucracy and special-interest spending: an analysis of roll-call votes shows where senior and junior congressmen stand.

The most commonly suggested limit on congressional tenure is twelve years—that is, six terms for representatives and two terms for senators. Using twelve years as the dividing line between junior and senior congressmen, we find that limiting congressional tenure to that length would significantly affect the orientation of Congress.

The National Taxpayers Union's ratings strongly support this contention: since 1978, when the NTU began measuring congressional support for a comprehensive tabulation of spending programs, junior representatives have always been more fiscally conservative than senior representatives. This relationship holds within each party: senior Democrats are bigger spenders than junior Democrats, and senior Republicans are bigger spenders than junior Republicans.

The results for the Senate are similar. The difference is less marked there, because the exposure of most senators to pro-spending indoctrination long predates their election. Almost all of them have held previous elective office, in either federal or state government. As in the House, the difference between junior and senior members is found in both parties, although not so consistently.

Spending decisions

The picture given by the NTU spending scores is reinforced by votes on other budgetary questions. For example, on July 17, 1990, the House voted on a proposed balanced-budget amendment to the Constitution, which aimed to limit spending growth by mandating a balanced budget. Such a provision might not really limit spending, but congressmen reacted to it as if it would. Their votes therefore reflect sentiment toward limiting the size of the federal government. All but five Republicans supported the amendment, so a junior-senior comparison for that party would not be meaningful. The Democrats, however, divided on the issue, giving us a chance to test the effect of seniority on their votes. The results show the

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clear effect of seniority: Democrats' hostility to the balanced-budget amendment correlated perfectly with the length of their tenure in Congress.

This proposed amendment fell only seven votes short of the two-thirds majority needed for passage. Had term limitation been in effect, eliminating the senior Democrats from the picture, it would have passed with scores of votes to spare.

Another critical budget decision was the five-year budget plan approved by Congress on October 27, 1990. This was the agreement worked out between President Bush and congressional leaders to avoid the automatic budget restraints of the Gramm-Rudman-Hollings Act. The budget package purported to cut the budget, while actually increasing nondefense spending by at least $245 billion. To pay for this increased spending, the plan effectively dismantled the Gramm-Rudman-Hollings Act and the fiscal discipline implied therein. It increased taxes by $137.2 billion, and it provided—in what was laughably billed as a "deficit reduction package"—for an *increase* in the deficit, to a record $254 billion (or more, if we factor in the effect of expected recession) for 1991. To an outsider the plan seemed designed to ensure the growth of government spending at all costs.

If a term-limitation amendment had been in effect, this budget plan would never have been approved, for it was senior members—those serving more than twelve years—who provided the margin of victory. In the House, the measure passed by twenty-eight votes, 228-200; in the absence of the senior members it would have failed 142-146. In the Senate, the measure passed by nine votes, 54-45; with senior senators excluded it would have failed 26-32.

One should not exaggerate the difference between junior and senior congressmen. Many relatively junior members are big spenders, and some senior members remain rather conservative; the differences are only moderate.

Nevertheless, the data indicate that excluding members with over twelve years of service would produce a more fiscally conservative Congress. The budgetary implications of this change would be noticeable. Even if the effect were to keep spending increases smaller by only a few billion dollars each year, the cumulative effect would be considerable. One billion dollars less spending in 1978, for example, would have lowered the baseline for future spending growth, resulting in a budget $10 to $20 billion lower a decade later. If spending had been increased by less in 1979 and

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thereafter, hundreds of billions of dollars less would have been spent in 1990, thanks to the principle of compounding. In other words, had a term-limitation amendment been in effect in 1978, the more fiscally conservative Congress that it would have created would probably have made possible a balanced budget in 1990!

These figures may make it seem that term limitation is a partisan issue that only fiscal conservatives should endorse. Before accepting this view, however, we should remind ourselves of the abuse that term limitation is designed to redress. The Washington policy environment is appallingly one-sided. The figures from a study that I conducted of witnesses at congressional hearings illustrate the imbalance: advocates of government programs outnumber opponents by a ratio of 145 to one.

Liberals should be as shocked by this state of affairs as anyone else. Indeed, sincere advocates of governmental action should be especially concerned, because this procedural shortcoming is bound to result in worse government programs. With the decision-making process dominated entirely by an in-group of administrators and beneficiaries, the resulting programs are likely to be wasteful, inappropriate, and ultimately corrupt. In addition, liberals in particular should be leery of the impact of pro-business and defense lobbyists on Congress.

Term limitation is an indirect approach to treating this problem of one-sided decision making. Term limitation doesn't weaken the pro-government lobbyists, but it hampers their ability to indoctrinate congressmen. It means that long-time congressmen who automatically support the federal establishment will be replaced by new legislators who are more independent. All supporters of efficient and vital federal programs should endorse term limitation.

For all of these reasons, voters may be wiser than they are generally thought to be in supporting a limit on congressional tenure. This reform stands a good chance of removing a demonstrably incompetent congressional contingent; it provides a way to rectify the undemocratic electoral advantage of incumbents; and it affords a means of countering lobbyists and administrators in their endless drive to increase taxes, spending, and regulation.

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High-rise housing for low-income families

J.S. FUERST & ROY PETTY

AMONG THE shibboleths most widely held by urban planners, social scientists, architects, and self-appointed advocates for the poor is that high-rise buildings are unsuitable places for poor families with children.

As proof, they point to urban high-rise public housing in which crime and vandalism fester, social dysfunction is rampant, and vacancy and turnover rates are extremely high. They frequently recall one of the most vivid images of the failure of modern social-welfare policy—the spectacular dynamite demolition of St. Louis's Pruitt-Igoe housing project a generation ago.

One need not be an expert to realize that architecture was not the sole source of the problems that led to the demolition of Pruitt-Igoe and the tragic deterioration of high-rise projects in Chicago, Boston, and elsewhere. Poor locations; poor tenancy controls; enormous concentrations of very poor, socially troubled families; design flaws; poor maintenance; few supporting social services; and inept management are far more responsible for public-housing problems than is the height of the buildings.

This is important, because much of the low-income public housing (and privately owned, federally subsidized housing) in the

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United States—and in the world—is found in high-rise buildings. And as the current housing stock gets older and neighborhoods change, pressure increases in the United States either to convert high-rises to other uses or simply to tear them down.

Nowhere is the issue more urgent than in Chicago, where high-rise, low-income housing projects have long been seen—deservedly in many cases, but altogether undeservedly in others—as vertical prisons, cesspools of crime and despair. The Lake Front Homes, three buildings on Chicago's South Side, once housed more than 1300 families; now, however, they stand empty and boarded up, while officials determine whether to renovate the buildings for low-income families or demolish them. A number of political and economic forces, few directed toward helping low-income families, have favored destroying the buildings. Unfortunately, many well-intentioned people support this measure, because they regard high-rise buildings as unacceptable for families.

But interviews with low-income tenants in successfully managed high-rise buildings reveal different views. The tenants in one twenty-two-story, publicly subsidized, privately owned, low-income building were asked to respond to criticisms of high-rise living. These were some of their comments:

On isolation: "People who live in high-rises are closer together than those in low-rises. There is no reason for isolation if we band together and organize, which we are doing."

"Does one meet more people in an elevator building or in a three-story walkup? I say in an elevator building. I know many more people here than in the three-story walkup I lived in before."

On crime: "I agree that crime is higher in low-rent public housing, but it has nothing to do with high-rises. It is specifically tenant selection. I lived in public housing and I now live in a high-rise with mostly low- and moderate-income families. I find that people look out for each other better here."

"Walk the streets. You will find that detached houses or multi-family walkups with the same economic and socially deprived groups have the same high crime rate."

"Crime has nothing to do with height. It depends upon the neighborhood and the tenant choice."

"In the public projects crime doesn't result from height but from placing too many problem families there."

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On outdoor space and amenities: "Surely, outdoor space is fine. But it's just not possible for everyone to have a garden with his own flat in a large urban area."

"High-rises, certainly ours, have no lack of amenities. We have good refrigerators, good kitchens, bathrooms, and laundry equipment. I don't know where [the critics are] coming from, but it sure ain't where I'm coming from."

On family life: "High-rise doesn't affect our family life at all. True, we have to adjust to the routine. We take the kids to the park and to downtown. We are extremely family-oriented. Our lifestyle revolves around our family."

Scholarly responses

Some scholars have recently observed that there is little connection between high-rise living and social dysfunction. Sandra J. Newman, in *Human Response to Tall Buildings*, reported that "those respondents we have been able to study imply that living in a high-rise building, *per se*, has few if any properties that are uniquely associated with satisfaction or dissatisfaction. It is other features of housing environment, rather than building height, that result in different degrees of satisfaction." Anne Stevenson, in *High Living*, emphasizes economic issues. She argues that blaming high-rises for breakdowns in family life, lack of privacy, and nonparticipation in communal life ignores the fact that high-rises can provide adequate shelter in an adequate environment, at reasonable prices, for low- and moderate-income people. She contends that advocates of housing for the poor should be open to many solutions, including those incorporating high-rise buildings.

Stevenson's conclusion is that high-rise buildings quickly and efficiently meet the urgent need for new housing for low-income people. Such buildings can be conveniently located, can solve the problem of site shortage, and can be attractive and functional. In the foreseeable future, she believes, people will be housed in high-density areas; she argues that "we must extend our thinking about family living beyond the idea of suburban life."

Her interviews of Australian tenants living in low-income high-rises in Melbourne are revealing. All but two of the building's tenants expressed satisfaction with high-rise living, praised the maintenance and amenities, and said that they would regret being moved out. One tenant commented: "Sure, I'd like to have a house

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and a garden and a fireplace, but we'll be here a long time unless we win the lottery."

Philip Klutznick headed the nation's first public-housing program under Franklin Roosevelt; he was also an original founder and developer of Park Forest, a successful postwar "new town" built south of Chicago. (He later became Secretary of Commerce in the Carter administration.) Klutznick, a man with decades of practical experience in housing, wrote to the authors last year:

> It is not whether public housing is high-rise or low-rise that determines whether the housing functions well or not.... [B]uildings are not the enemies. It is bad management that permits the poor type of tenants to continue in occupancy. New York City is a prime example. The high-rises, properly managed and maintained, are perfectly adequate for low- and moderate-income families who qualify. Tearing down the buildings will not solve the problem.... In a country so lacking housing at the low- and moderate-income level it is almost criminal to tear down buildings that are repairable, unless there are specific plans to replace the available housing for the same income group (something highly unlikely at this time).

Indeed, a great many public-housing high-rises are still sound in basic structure and good candidates for rehabilitation. One of the authors was on the staff of the Chicago Housing Authority (CHA) between 1945 and 1950, under the enlightened leadership of Elizabeth Wood, when the agency was building 1200 units of state- and city-financed vest-pocket buildings, mostly high-rises. The seven high- and mid-rises built, ranging from 150 to 250 units each, were designed by some of the most creative architects in the city.

These developments were praised in publications like *Progressive Architecture* and *Architectural Forum* for providing conveniently located housing for low- and moderate-income families, as well as for their outside balconies, color, floor plans, and other features. Some of these buildings, such as Archer Courts and Prairie Courts, still provide good housing. Others have deteriorated, and not always because of inept management and tenant selection; due to very solid original construction, however, these buildings remain intact, and they are excellent candidates for rehabilitation.

The problems of public housing

But for a variety of political and economic reasons, conventional public housing in this country has developed seemingly intractable problems, particularly in high-rise buildings in the very

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poorest all-black neighborhoods. In cities like Cleveland, Detroit, St. Louis, Newark, and Chicago, much high-rise public housing has indeed destroyed family values, and it does require radical change. The buildings were defective in many ways. First, they were placed in the poorest and most deteriorated areas. Second, in order to meet the needs of large families, many were built with a great number of three-, four-, and five-bedroom units, a well-meaning but extraordinarily misguided practice. Third, as a result of court decisions and inept management, tenant selection has made public housing the "housing of last resort" for the poor. In consequence, many high-rise buildings have been filled almost entirely with large, female-headed minority families that receive public assistance; these families have often been plagued with multiple social problems.

But the federal government did not attempt to rectify these developing problems, because the possibilities seemed so slim and popular opposition to public housing was so intractable. Instead it virtually abandoned conventional public housing in 1963, and it developed new programs of publicly subsidized, privately operated housing. These programs quietly succeeded, but conventional public housing was neglected.

In 1969 U.S. District Court Judge Richard Austin handed down a detailed court order in the landmark Chicago case of *Gautreaux* v. *Chicago Housing Authority, et al.* This case was brought to desegregate Chicago's public housing, but Judge Austin's order went much further, implementing what was fast becoming the conventional wisdom of experts regarding the effects of high-rise housing upon children. Austin decreed that new public housing built in Chicago could not have more than sixty units per site; children were forbidden to live above the third floor in any new building.

As John Lange of the National Association of Housing and Redevelopment Officials predicted in 1970, this decision has virtually ended new construction of public housing—not only in Chicago but elsewhere, since the Department of Housing and Urban Development (HUD) adopted similar restrictions shortly after the *Gautreaux* decision.[†] The political problems inherent in selecting sites for public housing, together with the far greater costs of acquisition and construction, meant that only a handful of

[†] See our "Bleak Housing in Chicago," *The Public Interest*, no. 53 (Summer 1978).

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scattered-site units have been built—only 87,000 in the entire country in the past twenty years. This is a drop in the bucket compared with the need, and the number is certainly far below what was necessary to replace the existing deteriorated stock. The opposition to high-rise public housing, reflected in the *Gautreaux* decision and elsewhere, was misdirected. What was instead necessary was a radical improvement in the administration of public housing—something that did not begin to occur in Chicago until twenty years after the court's decision.

High-rise successes

Contrary to conventional wisdom and public perceptions, high-rise public housing is often successful in a great many different locations. For instance, most public housing for the elderly in the United States is in high-rise buildings; generally, it is excellent. There is also much good high-rise, low-income family housing. For example, New York City continued to build high- and mid-rise public housing long after other cities had ceased to do so; in general, the city's projects are well maintained and no more crime-ridden than the surrounding neighborhoods. Some of the better examples of successful family high-rises are the Harlem River Houses, Chelsea House, and the Alfred E. Smith Houses. Many of the state-operated Mitchell-Lama projects (such as Riverbend and Watertown East) and privately sponsored developments like Phipps Houses also fall into this category. All of this housing serves low- and moderate-income families, and all of it works well.

The high-rise issue surfaced in New York City in the 1970s during a fight over a proposed 800-unit, twenty-two-story building in the Queens neighborhood of Forest Hills. The community for the most part feared that many black low- and moderate-income families would be placed in their white middle-income suburban community. The high-rise issue was merely a smoke screen for this concern, but opponents nevertheless cited the conventional wisdom in arguing that the high-rise project would bring crime and social problems.

Mario Cuomo, then a lawyer in private practice, was brought in to mediate the dispute, and he worked out a compromise. The result was a development of three buildings, each with twelve stories, and a total of 420 units; 40 percent of the housing was reserved for the elderly, and some four hundred children lived with their families in the rest of the development. Now twelve years

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old, the development has been a huge success. Tenant turnover has been very low; the development is racially integrated; crime has not increased; property values in surrounding areas have continued to rise; new construction continues apace. And according to Marcia Kroll, principal of the school serving the project, reading scores in the local schools have changed little since the project's construction.

Another equally successful project with an equally controversial beginning is the Cedar-Riverside development in Minneapolis, a 1300-unit set of high-rises built in 1968. It was to be the first part of a 5000-unit complex, including shops and commercial and community services, but area residents fiercely opposed to high-rises mobilized to halt further high-rise development. Notwithstanding this controversy, Cedar-Riverside has worked out well. A community organization was formed to provide residents with day care and medical services; cooperatives run by tenants were also created; and some surrounding buildings have been rehabilitated. The development is now managed by Stephen Parliament (formerly a local developer), under joint public and private auspices; tenants are actively involved in its management. Parliament does not advocate high-rise housing for families, but he agrees with Ralph Rapson, the original architect of the development, who argues that "high-rises are not good for every family, but with the housing shortages for low-income families, we can't possibly tear them down." Parliament notes that some five hundred children live in the high-rises; the buildings are stable and well integrated, both racially and according to family composition. It is a well-managed and successful operation.

Successful high-rise public-housing developments also exist in many other cities, such as San Francisco, Toronto, Boston, and Baltimore. And even greater success stories are found among the publicly subsidized, privately owned low- and moderate-income buildings built under the federal 221(d)(3), 236, and Section 8 programs, and under state programs in New York, Massachusetts, and Connecticut. Although they receive little publicity, there are literally hundreds of excellent high-rise buildings—unknown precisely because they are excellent, so that they attract no public or neighborhood attention—across the country.

The federal programs, which for the most part have been defunded, varied in some respects, but they all subsidized construction loans to private developers. Under the 221(d)(3) and 236 pro-

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grams, developers were limited to renting to families under prescribed income limits; under the Section 8 program, begun in 1973, developers could either rent exclusively to low- and moderate-income families or rent 80 percent of their units at market rates (with the balance going to low- and moderate-income families who would pay no more than 30 percent of their incomes for rent).

Chicago's private high-rises

Ironically, while Chicago has one of the worst reputations for high-rise public housing, its stock of privately owned low- and moderate-income high-rises is mostly excellent. Those who live near these buildings often do not know that they are subsidized.

There are probably a hundred such high-rises in Chicago, with about 12,000 units. Located for the most part in the city's black neighborhoods, they primarily serve low- and moderate-income families with children. Tenants like living in the buildings, which accordingly have low turnover and vacancy rates.

In addition, there are many successful Section 8 buildings, with a mix of market-rate units and those reserved for low- and moderate-income tenants. Two excellent examples are the Elm Street and Asbury Plaza buildings, both high-rises with 350 units each, both managed by the Habitat Company. They are Section 8 buildings, now about twelve years old, each with 20 percent of its units set aside for low- and moderate-income families.

Neither site would seem very suitable for raising children, since they are in dense upper-income high-rise neighborhoods, with heavy traffic and few amenities for children; and in fact only forty children live in Asbury Plaza, and only about twenty more in Elm Street. But this is because the families that moved in when the buildings were new are still there—even though their children have grown up and left to start their own families. Move-out rates are low—both for Section 8 and market renters—and none of the many tenants with whom we spoke expressed dissatisfaction. The private management firm that runs the buildings is satisfied with them, and says that these two Section 8 buildings have been reasonably successful operations.

The existing system of privately owned, subsidized buildings has worked quite well in most cases. The private owners of Section 8 buildings are, after all, in business to make money, and they cannot do so unless their tenants are reliable and turnover is low. Thus they have strong incentives to adopt tenant-selection and manage-

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ment practices that public-housing authorities in the past neglected: for example, they refrain from having too many large units and therefore large families, and they select new tenants very carefully.

In addition, their managers provide good service to their tenants. Tony Augustine, vice president of the M. Myers Organization in Chicago, which manages a number of 236, 221(d)(3), and Section 8 buildings, emphasizes the need to visit the homes of prospective tenants, to assess their housekeeping standards and ability to control their children. Similarly, Peggy Caputo of Elzey Associates, which manages 750 high-rise units for low-income families, emphasizes the importance of providing humane and understanding management. In effect, successful managers must *not only run a business, they must also work well with people.*

The problem of large apartments

It should be clear from all of this that the management of low-income housing is far more important than its architecture. And the most important decision that managers can make is to restrict the size of the apartments, which essentially limits the size of the families in low-income buildings. Many observers have concluded that the single largest factor related to high crime, vandalism, and social dysfunction in low-income housing is the presence of too many large families. In an article on the problems of British high-rise council housing in the British publication *New Society*, social critic Gavin Weightman concluded more than a decade ago that the height of housing projects was unrelated to their problems, which stemmed instead from "too many children." While Weightman recognized that this is an oversimplification, the experience of managers and observers the world over supports the conclusion that the worst mistake that can be made is to have too many large apartments—no matter what kind of buildings they are in. This conclusion is particularly applicable to high-rise buildings for low- and moderate-income families.

Management and design concerns overlap in limiting the number of large families in any one building. Since so many existing high-rises have far too many three- and even four-bedroom apartments, managers must limit the number of children per unit and per building, even if doing so leads to units lying vacant; managers must also remodel existing buildings to convert three- and four-bedroom units into one- and two-bedroom apartments. In the most

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successful high-rise buildings for low- and moderate-income families, the great majority of apartments have no more than two bedrooms, and very few have more than three. Many Section 8 and 236 buildings have succeeded because they adopted this design, and because their tenants were carefully selected.

The problem of large families

Our proposal to improve public housing by limiting the size of units does, of course, face an obvious but important objection: What is to be done with the many large families that currently live in large apartments?

We would propose, first, that well-behaved large families could and should remain on the lower floors of high-rises. Other large families could be relocated in public-housing low-rises, or even into single-family housing of the kind operated under the Section 235 program, under which homes foreclosed by the Federal Housing Authority are sold to low- and moderate-income families for one dollar.

Another group could go into "halfway houses"—rehabilitated structures, usually in deteriorated areas, that are nevertheless far superior to the kind of public housing from which most such families would come. Still others could go into public housing that would be set aside especially for the most problematic families—a harsh solution, but one that is perhaps necessary for the good of the other families. London public housing has long taken this approach.

It might even be necessary, in the most extreme cases, for problem families to be evicted from public housing altogether; but this course would be taken only when the families repeatedly ignored requests to stop behaving in ways that harmed the quality of the lives of other tenants. While it is certainly true that such an extreme approach would cause severe hardships for such problem families, it might well be justified in those cases in which they effectively forced deserving families to leave public housing.

Admittedly, even well-managed high-rises without too many large units may not be perfect for families with children. In an ideal world it might well be best instead to place poor families in pleasant suburban-style houses with gardens—but then an ideal world would have no poor families. In the real world, we are mostly restricted to working with the housing that we already have; regrettably, only limited funds and limited space are available for the construction of new housing.

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Improving design

Architects can, however, make high-rises better environments for low-income families. Measures of great importance can be taken, both in designing new buildings and improving existing ones.

As we have implied, the desirable height of a high-rise, which is vigorously debated by architects and planners, seems relatively unimportant; its irrelevance is confirmed by interviews in which high-rise tenants reveal little preference with regard to height. A.M. Pollowy of the University of Montreal's Center on Urban Research writes that families with children seem not to care about the height of their dwelling; those living high up, he reports, are no more or less satisfied than those living near the ground.

Many authorities emphasize what is more important: the provision of amenities that make high-rise buildings seem less institutional. University of Illinois architecture professor John Macsai suggests a point system that would allow developers a higher unit density (which translates into more profit) in exchange for amenities such as day care, community rooms, indoor and outdoor play space, a commissary, better landscaping, and so on. Claire Cooper Marcuse proposes that tenants be permitted to choose the paint colors for their apartments, and that the heights and facades of buildings be varied to avoid uniformity.

One thing that Oscar Newman, Jane Jacobs, and Cooper Marcuse agree on is the importance of providing easy—but not too easy—access to high-rise housing. Some form of round-the-clock security is advisable if at all possible, whether provided by security guards or a tenant association. A building should have as few entrances as possible, located near the manager's office or in full view of other apartments, to minimize encroachment by strangers. A building should also have pleasant and well-lit lobbies, bulletin boards for announcements, and tables or shelves on which packages can be placed. Finally, there is no substitute for careful tenant selection and reasonably good location.

To be suitable for children, high-rises must also have adequate play space—either off the corridors, on wide balconies, or on playgrounds adjacent to the building. Play spaces should have comfortable benches for adults, to encourage them to socialize nearby.

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Opposition to high-rises

Although high-rises can provide suitable housing for low-income families, opponents of high-rise public housing have often managed to eliminate them or at least to block new construction. In Toronto and San Francisco opponents have won the right to limit the height of buildings generally; in Washington, D.C., Cleveland, and St. Louis, limits have been imposed on the construction of high-rises for low-income families, and buildings designed for families have been converted into housing for the elderly. Opponents of high-rises have occasionally managed to bring about their demolition, as in the Pruitt-Igoe fiasco of a generation ago—which was accomplished even though a HUD committee study of the problem had recommended against demolishing more than a handful of the units, arguing that the buildings should instead be rehabilitated, remodeled to eliminate the top floors, and surrounded by low- and mid-rise buildings. And as we have seen, opponents have at times been able substantially to reduce the size of planned low- and moderate-income developments.

The battle over high-rises is nowhere more clearly joined at present than at the three boarded-up buildings of the CHA's Lake Front Homes, in an all-black South Side neighborhood. The original plan was to vacate the buildings with a promise to rehabilitate them; but then the decision was made to tear them down and replace them with low-rise buildings for low- and moderate-income families. However, the cost of demolishing three high-rises and then building new low-rise housing is simply out of the question for the CHA, which is always financially strapped; the new construction would probably cost at least twice as much as a decent rehabilitation. Former tenants of the buildings want officials to live up to their original promise to rehabilitate the units and to let them move back in. Many blacks believe that tearing down the buildings is just another form of "black relocation," observing that these units were the only low-income housing built on the lakefront. The highly valued lakefront site would doubtless be a lucrative plum for real-estate developers, and more than a few Chicago cynics have suggested that the interests of the poor are unlikely to outweigh those of developers and financiers.

It is unfortunate that many well-intentioned people who ought to know better are unwittingly aiding in the destruction of desperately needed low-income housing, in the mistaken belief that high-rises

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necessarily harm children. So far, however, Vincent Lane, the CHA's thoughtful new executive director, appears to have been able to prevent demolition. He has already rehabilitated a third of the project's 1500 units, and he is now rehabilitating the rest, in direct opposition to the private interests that aim to tear them down.

The example is likely to be repeated in city after city, as pressure builds on housing officials to do something about the real and perceived problems of low-income housing. But unfortunately, for far too many people, the right answer will be the simplest one—to tear the housing down. While high-rise housing is certainly not a panacea for low-income families, it can indeed prove workable in many different situations. At a minimum, any proposal to tear down high-rise housing because it is "bad for families," or because demolition supposedly costs no more than rehabilitation, should be weighed very carefully against all other alternatives. In view of the continuing deterioration of so much of our existing low-income housing stock, we would be foolish to destroy serviceable housing units that so many poor families desperately need.

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